WITHDRAWN
Anonymous

# A HANDBOOK TO THE LEAGUE OF NATIONS

# A HANDBOOK

TO THE

# LEAGUE OF NATIONS

## BROUGHT DOWN TO THE END OF THE FIFTH ASSEMBLY

WITH AN EXPLANATION OF THE PROTOCOL

BY

SIR GEOFFREY BUTLER, K.B.E., M.A.

FELLOW AND PRAELECTOR IN DIPLOMATIC HISTORY
AT CORPUS CHRISTI COLLEGE AND
REPRESENTATIVE IN PARLIAMENT OF THE
UNIVERSITY OF CAMBRIDGE

WITH AN INTRODUCTION BY

THE RIGHT HON. VISCOUNT CECIL OF CHELWOOD, K.C.

SECOND EDITION

*REVISED AND ENLARGED*

LONGMANS, GREEN AND CO.
39 PATERNOSTER ROW, LONDON, E.C. 4
NEW YORK, TORONTO,
BOMBAY, CALCUTTA AND MADRAS
1925

F°H
.B97

*Made in Great Britain*

TO
MY CONSTITUENTS
IN GRATITUDE

7 '46 A

the causes of war. I am grateful to Sir Geoffrey for having called attention to the extent of the debt owed to the late Lord Salisbury for his efforts to advance this side of international relations. But Lord Salisbury would have been the first to admit that the Concert had serious defects as an international instrument. Chief among them was the fact that it had no continuous existence or permanent machinery. It was only brought into action when an emergency had arisen, and to begin to exercise its functions it required the consent of all the Powers concerned. Another disadvantage was that the Concert only embraced the chief European Powers. The United States—indeed, all America and Asia—were left out. Both of these defects will be remedied if the Covenant is carried into effect. Peace will be recognised as the interest of all nations in and out of Europe, and the duty of preserving it will be acknowledged by every one of them. A permanent organisation is also to be created which will be kept in working order by constant use in promoting peaceful international co-operation, so that when danger of war arises joint action by the Powers of the world can instantly be taken.

Undoubtedly the League is an experiment, and it may fail. If it does there is no hope. No one can seriously believe that any development of the idea of the Balance of Power can give any satisfactory result. Peace cannot be preserved by systematising the preparation for war. And unless peace can be preserved our civilisation will perish, just as surely as did the Roman civilisation, and far more rapidly.

It is, therefore, the most urgent of all civic duties to take care that the League does not fail. Its suc-

cess depends entirely on the instructed support of the peoples of the world, and perhaps especially of the British people. Such a book as this furnishes the means of instruction. It is a contribution to the great work of world pacification, and as such let us welcome it and bid it God-speed.

ROBERT CECIL.

*November* 11, 1919.

## POSTSCRIPT

It is very good news that a fresh edition of this book has been called for. Much has happened since the First Edition appeared. The League is no longer an aspiration of the future but a solid international fact. On the whole, I have nothing to withdraw from what I wrote in 1919 except the anticipation that the United States would be a Member of the League. The League has prospered and has done much good work, though so far only of a preliminary character, for up till now no great test has come upon it. It has yet to show that it is strong enough to prevent a great war, and it has still many problems to solve—chief amongst them the problems of security and disarmament. Now, as then, its power for good depends on the amount of popular support that it receives, and it can only receive that support from those who understand its constitution and operations. Therefore, the Second Edition of this excellent little book is just as welcome as the First.

CECIL.

*February 27th*, 1925.

reproduce an essay from that publication which, very slightly amended, appears as my present chapter XII.

His Majesty's Stationery Office have given generous leave to reproduce their publications. My colleague, Mr. Arthur Goodhart, has kindly helped me to read the proofs, and I have been throughout much helped by the officials of the League of Nations Union and especially Mr. A. J. C. Freshwater.

G. B.

*Corpus Christi College,*
*Cambridge.*
*April* 1925.

# PREFACE TO THE ORIGINAL EDITION

'Non fecimus altos nimis et obscuros in his rebus questionum sinus; sed primitias quasdam . . . dedimus.'—Aulus Gellius ('Noctes Atticæ,' præf.).

THERE is perhaps no need of an excuse for elementary treatment of the subject of the League of Nations. If the present Paris scheme is to meet with permanent success, it cannot remain an abstraction, buried in Government papers or in legal text-books, and those of the general public who wish to form an estimate of its ability to meet the difficulties that lie ahead, may be grateful to have a short treatise which tries to place the League in its historical perspective. In writing this Handbook I do not pretend to full adequacy of treatment, and what I have written can never be classed with the treatises of the men whose works I often quote, and of whose erudition I have consistently made use. I have tried to keep the ordinary citizen in mind, and I have avoided complications which should properly appear in a more elaborate treatise on the subject. Even when treating of the mechanism of the Paris scheme (Chapters VI and VII) I have tried to banish all detailed treatment except just so much as indicates how in a

## PART II

CHAP. PAGE

VIII. The League in Action: Five years of League History—Alternate theories, unitary or mediatory—Lord Balfour's judgment . . . . . 49

IX. The Machinery Working: Preliminary remarks—The Language question—Success and failure—The United States—Humanitarian activities—Organs—The Council—The Assembly—The Secretariat—The Permanent Court of International Justice . . . 58

X. Disarmament: Dependence on a guarantee of security—Situation under the Covenant—The draft treaty of mutual assistance—British Government reply—American project—Debate at the Fifth Assembly—The Protocol . . . . . 82

XI. Obligations of the League: The Mandates—The permanent Commission—Minorities—Registration of Treaties—Saar Basin—Danzig—Eupen and Malmédy plebiscite . . . . . 96

International Labour Organisation . . . 99

XII. National Sovereignty and the League of Nations 101

Appendix A. Abstract of the League's activities in the the form of a chronological table . . 113

„ B. Bibliography of official publications and useful books . . . . . 141

„ C. The Covenant . . . . . 150

Commentary on the Covenant . . 166

„ D. Statute of the Permanent Court of International Justice . . . . . 180

„ E. Proposed Treaty of Mutual Assistance . 218

„ F. The Protocol for the pacific settlement of International disputes . . . 227

# A HANDBOOK TO THE LEAGUE OF NATIONS

## PART I

## CHAPTER I

### THE ORIGIN OF THE LEAGUE [1]

*The League of Nations.*—In 1919, at the end of the Great War, the Powers which had been fighting against Germany met at Paris to discuss the terms which they would impose upon the beaten enemy.

[1] The original text of the League of Nations is best studied in the two forms in which it was issued as a Government White Paper, to wit, in

(*a*) Miscellaneous No. 1 (1919). A draft agreement for a League of Nations, presented to the plenary inter-allied conference of February 14, 1919. 1*d.* net;

and in the revised version,

(*b*) Miscellaneous No. 3 (1919). The covenant of the League of Nations, with a commentary thereon. 2*d.* net.

The most recent version is printed in Appendix C.

The three best books which, without being too technical, give a more exhaustive account of the League than is given in this Handbook are:

Dr. T. J. Lawrence: *Lectures on the League of Nations.* Bristol: J. W. Arrowsmith, Ltd., 1919. 1*s.* net. An admirable analysis of the draft agreement.

Lt.-General Rt. Hon. J. C. Smuts: *The League of Nations: a Practical Suggestion.* Hodder & Stoughton, 1918. 6*d.* net.

Prof. L. Oppenheim: *The League of Nations.* Longmans,

development, as also to bind together the human society that might otherwise have disintegrated into anarchy under the stress of the conflicting forces which out of their conflict built up such development. The mechanical breaking down of international barriers, the improvement of locomotion by land, sea, and air, the perfecting of electric telegraphs and telephones, the return to mediæval conditions in the unity of the world of thought and scholarship, all gave men and women to wonder whether, without sacrificing the proved virtues of a sturdy nationalism, it was not time for giving written recognition to certain international ideas that had come into existence, whether up to then their existence had been fully realised or not.

*The Birth of the Individual.*—It used at one time to be the delight of poets and imaginative writers to talk of the 'noble savage' and the 'free savage.' They did so usually under the conviction that their contemporary life was restricted, monotonous, or complicated. We now know that the savage, instead of living an unrestrained life, such as might be led, according to novelists, by modern travellers cast up upon a coral island, was hemmed around by the most rigid conventions of tribal or totem custom,[1] to break which conventions meant instant death or disgrace. From earliest youth the savage had his course of life prescribed for him. He had to be initiated, at the prescribed times and by the prescribed methods, into the man-

[1] Sir J. G. Frazer's books (e.g. *The Golden Bough*) are full of rich illustration of the nature of savage life—see in particular his *Origin of Kingship*. See also Figgis, *The Divine Right of Kings* (chap. ii.).

hood of the tribe ; could only marry outside his own and sometimes only into certain other totem groups ; lived in terror of the witch doctors' ' smelling-out ' to an extent familiar to all readers of Sir Rider Haggard's books about the Zulus. When he became an old man, an elder of the tribe, his relation to the tribal custom did not alter, except in so far as it was the part of the elders to administer it and see that it was observed by all. In a word, the position of the savage differed little from that of the animals, of whose still more rigid custom Kipling has written:

' Now this is the law of the jungle, as old and as true as the sky;
And the wolf that shall keep it may prosper, but the wolf that shall break it must die.'

From this brutish state release came only through the rising up of an individual gifted with force enough to strike terror into the other members of his tribe, and thereby with authority enough to overawe the witch doctors and their vested interests. Sometimes it was a medicine man who did it ; sometimes ' war begat kings,' and it was leadership in council or the field that gave this single member of the clan his power. In effect, he said to the community that henceforward his will, and not the tribal custom, should be supreme. He dared the gods. He became a king among his people. The individual will and the individual point of view were born. That individual point of view was soon to be shared with other men than he who first asserted it.

## CHAPTER II

### THE NATION STATE

*The Birth of the Nation State.*—The emergence of the individual point of view as opposed to that of the blind rule of tribal custom formed the foundation upon which human society could build its betterment. All history as studied to-day in schools, be it Greek, Roman, foreign, or English, shows only the combination of separate individual personalities into a pattern or community that differed in different ages and was called by different names according to the shape it took. The most studied period of classical history describes an intensified form of such corporate organisation, the city State.[1] The Oriental historian points both to the Old Testament and to the earliest records of Mohammedanism for graphic contemporary pictures of what is termed the theocratic State, the essence of which is found in the fact that the powers that be claim, or are thought, to be God's vicegerents, and base on that the sacrosanct nature of their authority. In English history through the Middle Ages, and in the history of many European countries, though by no means all kept the English pace of its later development and transformation, the

[1] See, for example, Warde Fowler, *The City State of the Greeks and Romans.*

feudal principle, intensified in England by the Norman Conquest, can be seen to be at work. Logically feudalism is bound up with the principle of decentralisation. The king parts with the exercise of certain of his powers in return for certain services owed him by, and duly claimed from, the lordling under him to whom he farms it out. Yet strong kings, like the Conqueror and the first two Henrys, using the ultimate authority as overlord, from which the kingship never parted, gradually concentrated in their hands all functions of administration to the exclusion of all local, baronial, and decentralising rights. But if the king's law and the king's courts and the king's authority were to stand alone in England, because, on the whole, it was a better law and a better system of administering justice than those of any of his rivals, including the most powerful of all, the Church, nevertheless the king had to make a compromise with the community. For generations men reasoned about this clash or conflict. It was the glory of Edward I that it was he who finally gave expression to ideas that had come into existence and clamoured for legal and constitutional embodiment. Corporations, districts, interests were henceforward to have their representatives in the council of the nation. England needed but the strong leadership of the Tudors to tide over the period of this new organism's infancy, and it stood before the world as an example no longer of the feudal but of the Nation State.[1]

[1] For a technical but lucid account of the development of England from feudalism to constitutionalism see George Burton Adams, *The Origin of the English Constitution*, especially chap. iv.

See also Pollard, *History of England* (Home University Library Series), where the Lancastrian period, omitted by me, is treated.

*Interaction of the Nation States.*—Mediæval history, then, treats of a Europe slowly changing from a feudal organisation to that of a number of contiguous Nation States. The process, which was reluctant, was heralded and foreshadowed by the recrudescence in Italy of the city State. The Englishman and the Frenchman of the Middle Ages had much in common. Each was a member of the Catholic Church, each could pass from Oxford to Paris, thence also to Bologna, Salerno, and elsewhere, but neither need violently change his habit of life nor his attitude toward it. Latin provided both with a common tongue in which they could express themselves and could be understood. The line of demarcation between the nations was not deeply marked. When the Nation States of the Renaissance rose all this was gradually changed. The Frenchman became a law unto himself. He began, for instance, to wish to see incorporated within the boundaries of France the inhabitants of the neighbouring French-speaking duchies, the allegiance of whose rulers to the French king had till then been ill defined and a source of controversy. The cement that bound the kingdom together was in France, as in England, mixed in the royal laboratory, even if the ingredients were different, and if *parliament* is not the same as *parlement*. The Frenchman lost touch with the Englishman or the German. They had no more in common than had the citizen of Pisa with the citizen of Florence. The Nation State was forced to deal with the Nation State. Their representatives met as strangers, and their differences, when they met, could no longer be regarded as the fascinating, if quaint, local divergencies which geographical distance had worked in

the seamless garment of the body of the Church on earth. The nations needed a language and a law whereby they should be made free. It became the occupation of the minds of learned men what that language and that law should be.

*Machiavelli and Grotius.*—The answer given took two forms. The one came from Italy, and is inherent in the works of Machiavelli (1469–1527)[1] and in the records and State papers of the Italian city states. According to this view, the nation best served its own interests, and conceivably those of humanity, by adopting a policy of enlightened self-interest. The other was the answer of those men who, meditating upon the situation, found abhorrent the thought that States were under no obligation which took account of the common humanity of man. Particularly was this view urged in France at the end of the sixteenth century, where it was, for instance, the theme of a book by a Parisian named Emerich Crucé (1590–1648),[2] who formed a design for an international council to determine disputes between the nations. Sully (1560–1641), the great minister of Henri IV. (1589–1610),[3] incorporated a somewhat similar scheme into the memoirs of his

[1] The standard edition of Machiavelli is that by L. A. Burd (Oxford, at the Clarendon Press), with a learned introduction by the late Lord Acton. Mr. Burd has written a chapter (vol. i. chap. vi.) in the *Cambridge Modern History*, appended to which there is a good bibliography. See also Lord Morley's *Miscellanies*, Fourth Series; Figgis, *From Gerson to Grotius*, p. 62.

[2] Emerich Crucé, *Le Nouveau Cynée* (Balch, Philadelphia). See also Nys, *Les Théories politiques et le droit international en France jusqu'au XVIII^e siècle.* Also my article on Crucé in *The Nineteenth Century and After*, August 1919.

[3] Pfister, *Revue Historique*, 1894; my article in the *Edinburgh Review*, October 1919.

own life, asserting falsely that it had been the policy of his royal master. Others have drawn pictures of similar international Utopias at intervals down to the present day. It was not in sketching out ideal schemes for world organisation, but in the work of thinking out a system of regulation for international affairs upon so practical a basis that logically, in the course of time, world organisation must follow, that Grotius (1583–1645) rightly won the title of the Father of International Law.

## CHAPTER III

### LEGAL AND POLITICAL DEVELOPMENT (I)

*Grotius.*—The Thirty Years War was perhaps more brutally waged and more destructive of life than any war till the European War of 1914. Hugo Grotius,[1] who had been born at Delft, in Holland, in 1583, fled to France on the defeat of the Arminian or Burgher Republican party. He had enormous erudition and was a poet, a mathematician, a theologian, a writer on jurisprudence, and an editor of classical texts. The Swedish Government made him its ambassador to the French Court, and in this post he was instrumental in creating the Swedish-French alliance, which turned the course of the Thirty Years War against the Holy Roman Emperor and brought Gustavus Adolphus into Germany. Grotius died three years before the Peace of Westphalia (1648), which ended the Thirty Years War, was signed. Appalled by the savagery of that war's conduct, Grotius set himself to think out the principles upon which laws might be based for mitigating the horrors of hostilities. The application of these principles are given in his book, 'De Jure Belli et Pacis,' which was published in 1625 (the year in which Charles I

[1] Westlake, *Chapters on International Law*, has an admirable account of the life of Grotius.

of England came to the throne), and was dedicated to Louis XIII (1610-1643). As a model for his work there existed certain codes of maritime law which had governed the practice of sailors and merchants in ancient or contemporary traffic in the Mediterranean or other seas.[1] On other than maritime questions the practice of permanently accrediting ambassadors, the rule since the end of the fifteenth century, was beginning to provide in embryo a crystallisation of diplomatic practice. It was not, however, a mere codification (with additions) of existing law, which Grotius gave the world. As the Roman *prætor peregrinus*, in working out to meet the needs of the ancient world a practical system of law, invoked a system of ideal principles of right and wrong, familiar to the stoics, to improve and perfect the code of laws which he administered, so this same ideal eternal justice, the *ius naturæ*, was invoked by Grotius to shape and regulate the code of international practice which was once more to 'make men free' from the worst features of international rivalry in the new order of the world.[2] Thus he worked out a juridical expression for world

[1] *E.g.* the *Consolato del Mare*, a private collection of written custom made at Barcelona, in Spain, in the middle of the fourteenth century; *The Laws of Oleron*, a collection, made in the twelfth century, of decisions given by the maritime court of Oleron, in France; *The Rhodian Laws*, a very ancient collection of maritime laws put together probably between the sixteenth and seventeenth centuries; *The Tabula Amalfitana*, maritime laws of the Italian town Amalfi, dating from the tenth century; *The Leges Wisbuenses*, the maritime laws of Wisby, of the Swedish island Gothland, dating from the fourteenth century.

[2] Bryce, *Studies in History and Jurisprudence*, vol. ii. Essay xi., on the Law of Nature and the significance assigned to it by ancient Roman and modern international lawyers, is well worth reading.

organisation, about which other prophets like Crucé and Sully had but dreamed. In tracing the progressive steps towards some system of world-organisation we can see that the debt owed to both is great, to the more statesmanlike vision as well as to the more poetic. It is not too much to say that upon the work of Grotius the development of international law since then has been built up. The ideals of Sully and Crucé, caught up and repeated by others in the eighteenth and nineteenth centuries,[1] kept alive before men's minds the logical consequences of the system which Grotius elaborated.

*The Balance of Power.*—The mind of the public and of statesmen was moving towards the idea of world organisation along other lines. There is a significant passage in the instructions of Fénelon (1651–1715) to the young Duke of Burgundy, then heir to the French throne.

'Neighbouring States,' he writes, 'are not only under the obligation of treating each other according to the rules of justice and good faith : they ought also, for their own individual good as well as in the common interest, to form a kind of society, a republic, as it were. It is necessary to realise that in the long run the greater Powers always prevail and overthrow the less, if the latter do not answer back by uniting to form a balancing force. . . . We see that all nations are striving to outdo their neighbours. So each must be perpetually on guard to prevent the excessive aggrandisement of those that surround it. There is nothing morally wrong in this . . . it is, in one word, to work for liberty, peace, and the

[1] See Oppenheim, *International Law*, vol. i. p. 58 ; also Rousseau, *Jugement sur la paix perpétuelle de M. l'Abbé de Saint-Pierre.*

public safety. For the expansion of one nation beyond a certain limit disturbs the balance of the system of which it forms a member. Anything which upsets or disturbs the general system of Europe is dangerous indeed, and drags after it infinite evil.'

In these words the noblest and wisest man of his time describes the force which has been one of the dominating factors in European politics for four hundred years—the principle of the Balance of Power. At first the statesmen of Europe found themselves acting mechanically and unconsciously under the stimulus of this principle. In more modern times the principle was often consciously invoked.[1] In no instance can its operation be studied in a more simple form than in the case of Louis XIV (1643–1715).

Louis XIV entered into full control of his kingdom in 1661. The fifty remaining years of his reign were occupied by wars waged for the aggrandisement of France. In 1667 his attempt to establish French dominance in the Netherlands led to the formation of a triple alliance of resistance to such claims, composed of England, the United Provinces, and Sweden, and to the War of Devolution, ended by the Treaty of Aix-la-Chapelle (1668) a counter-move, concluded by himself with Spain, by which Louis made geographical gains of great importance, but failed in the accomplishment of his extreme desires.

Balked in these by the opposition which seemed

[1] For an example see M. André Tardieu, *La France et les alliances*, as also that distinguished statesman's other books on European diplomacy before the war.

almost mechanically to have arisen in answer to them, Louis succeeded in breaking up the Triple Alliance by the secret Treaty of Dover (1670), made with King Charles II of England, and by an understanding with the Swedish Government. Holland in 1672 was left to bear the brunt, therefore, of a most skilful attack directed by the soldier genius Turenne. Holland itself, and the city of Amsterdam in particular, were saved only by the opening of the sluices and the inundation of the country. When Louis XIV seemed to have all before him the war became general, the Great Elector and the Emperor Leopold taking their stand by Holland's side. After a brilliant campaign in the Rhine Valley Turenne was killed, but the war continued till the signing of a peace at Nymwegen in 1678. By this peace Lous XIV gave back to Holland everything that he had seized, though he obtained some compensation at the expense of Spain.

Such compensation, despite failure in his main attempt, may have drawn Louis XIV on to even more ambitious enterprises. This time he aimed no lower than the imperial dignity, and was prepared, if needs be, to fight all Europe for it. Immediately resistance to Louis XIV stiffened into the League of Augsburg, formed in 1686 by the Emperor, the Kings of Spain and Sweden, the Electors of Saxony, Bavaria, and the Palatinate. The scale was turned by England. Under Charles II that country had been neutral, an attitude even more helpful to King Louis than the too zealously Francophil attitude of James II. By revoking the Edict of Nantes Louis XIV had alienated even those Englishmen who were inclined to apathy. The House of Stuart was

rejected, and William of Orange, arch-enemy of Louis, assumed control in England. Undaunted all the same, the French arms did not flinch before all comers, and though the Irish adventure was defeated at the Boyne (1690), secured a victory at Beachy Head (1690). It was not till the battle of La Hogue (1692) that Louis was brought to realise that he had overreached himself. Then, in 1697, he signed the Treaty of Ryswick, by which he not only relinquished most of his pretensions, but made humiliating acknowledgments as to the legality of William III's and Mary's throne.

In the last phase of his reign, in the twelve years of the War of the Spanish Succession, Louis XIV had abandoned his imperial ambitions and sought only to urge the claims to the Spanish throne of his second grandson, Philip of Anjou. For the fourth and last time the principle of the Balance of Power reasserted itself, and the allies were up in arms to resist the French pretensions. Though at first the latter were successful, the course of the campaign was changed by the appearance of the Duke of Marlborough, and in the Treaty of Utrecht (1713), if Bolingbroke waived some of the fruits of Marlborough's and Eugene's conquests to gain a party victory, the failure of Louis XIV to 'disturb the general system of Europe' by schemes for 'excessive aggrandisement' was once and for all established.

The principle thus vindicated against Louis XIV in the eighteenth century was to find other applications. It was the principle which checked the French revolutionary enthusiasts in an attempt to propagate their wilder doctrines throughout Europe. It sent Napoleon to St. Helena. It thwarted

Metternich when he wished to make a tool of the Holy Alliance to stifle the principle of nationality and freedom. From the immediate point of view of this investigation, it may be said to have a negative as well as a positive aspect. Negatively, by protecting Europe from the dominance of any single Power, it prepared a world arena, in which the interaction of the Nation States found a natural expression in co-operation. In the construction of such co-operation appears the positive aspect of the principle, and this aspect has been summed up in the phrase 'the Concert of the Powers,' which too has had a history of its own.

## CHAPTER IV

### LEGAL AND POLITICAL DEVELOPMENT (II)

*The Concert of the Powers.*[1]—After the downfall of Napoleon, just as after the downfall of the German Empire in 1919, the Congress of the Powers, which met to make the peace, did not content itself with pursuing the object for which primarily it had assembled. The Czar Alexander I of Russia (1801–1825) proposed, and the other Powers agreed, to form a *Holy Alliance* (1815), in which, after thanking God for the mercies vouchsafed to them, the signatory monarchs agreed henceforward to regulate their conduct as heads of governments by the principles of the Christian religion, that they would see justice done their subjects, and that they would remain allied for ever, regarding each other as compatriots of the Christian nationality to which they all belonged. From this alliance the British representatives held aloof, partly because in substance and in language it was not calculated to appeal to men like Castlereagh (1769–1822) and Wellington (1769–1852), partly

[1] See Alison Phillips, *The Confederation of Europe* (Longmans, Green & Co.); also his chapter, vol. x. chap. i. of the *Cambridge Modern History* (The Congresses).

C. K. Webster, *The Congress of Vienna* (Oxford, Clarendon Press). See also *Blackwood's Magazine*, March 1919, No. MCCXLI.

because the character of Alexander and his actual behaviour were not above suspicion. Events were soon to show that this attitude was sound. The Holy Alliance, instead of bringing relief to a tired world by acting with mediating efficacy in reconciling conflicting interests and obviating international misunderstanding, degenerated into a junta of despotic monarchs, leagued to give aid to one another against the growing demands of the progressive parties in their States, or the new but widespread stirrings of the nationalistic spirit. Before his death, Castlereagh had regarded its activities with profound misgiving.[1] His successor, Canning (1770–1827), in connection with a barefaced attempt to use the Holy Alliance for the suppression of a political revolt in Spain, laid down the '*doctrine of non-intervention*,' a proclamation to the world of the sacrosanct character of the domestic affairs of every nation. At the same time he opposed to the ambitions of the Holy Alliance in South American affairs the doctrine of James Monroe (President of the United States of America, 1817–1825), by which American disinterestedness in European affairs was asserted and European Powers were warned off transatlantic territory and transatlantic politics.[2]

This first attempt to form a concert of the Powers ended in failure, chiefly owing to the lack of vision,

[1] Lord Salisbury, *Essays on Foreign Policy* (John Murray), Biographical, 'Castlereagh.'

*Royal Historical Society Transactions*, Third Series, vol. vi., C. K. Webster, 'Some Aspects of Castlereagh's Foreign Policy.'

[2] See Reddaway, *The Monroe Doctrine*; also Pekin, *Les États-Unis et la Doctrine de Monroe*; and Kraus, *Die Monroe Doktrin in ihren Beziehungen zur amerikanischer Diplomatie und zum Völkerrecht.*

perhaps inevitable, among those who were responsible for its inauguration. The future, however, lay with the application of the notion in the practice of diplomacy. Hanging like a pall over the Chancelleries of Europe lay the eternal Eastern Question, the problem of finding a *modus vivendi* between the decaying empire of Turkey and its Christian subjects and the neighbouring States. Alexander I had prevented this question coming up for settlement at the Congress of Vienna, Russian prospects as a residuary legatee upon the death of Turkey being far too good to make the question one which Russian public opinion would wish to have discussed as a problem mutually affecting all the European Powers. As the horizon grew dark with complications all Europe gradually came to the conclusion that the only way out lay in co-operation and in joint discussion.[1] Collective authority in dealing with the disintegration of Turkey has been exercised tentatively since 1826, systematically since 1856, when in the Treaty of Paris, which ended the Crimean War, the signatory European Powers undertook to respect the territorial integrity of the Ottoman Empire, and to consider as a matter of general interest—and of mutual discussion—any act which might infringe it. Since the ratification of this clause, which was repeated in a stronger form in the Treaty of Berlin (1878), the method there laid down has been applied successively to Greece, Egypt, Syria, to the Danubian principalities, and the Balkan peninsula generally, to certain other of the European provinces of Turkey and Russia, and to the treatment of Armenians. It was a method in which the great Lord Salisbury

[1] Holland, *The Congress of the European Powers in the Eastern Question* (Oxford, Clarendon Press).

had especial confidence.[1] It has become almost an instinctive action with Foreign Secretaries to regard it as a panacea, though under the pressure of the grave European situation in 1908 and 1912, Lord Grey of Falloden was unable to employ it in the Bosnia-Herzegovina crisis against Austria, or against Italy in regard to her Tripolitan annexation.[2] Of all the avenues leading to the realisation of a League of Nations, as that term is understood to-day, the employment of the European Concert, sanctioned by the penetrating intellects of Bismarck and Cavour, not to mention others, is not the least important or the least worthy of more study.

*Juridical Development.*—Further developments of international law kept pace with the more purely organic developments above described. The source of these was the prize court and the judicial bench : the issues were for the most part maritime. For the provocation of such issues the Napoleonic wars provided frequent opportunity. It was the good fortune, not of England only, but of humanity, that at the head of the English prize court there sat for thirty years the famous brother of Lord Eldon, William Scott, afterwards Lord Stowell.[3] His conception of the duty of a prize court is best summed up in his own words :

'The seat of judicial authority is locally here in the belligerent country, according to the known law and practice of nations, but the law itself has no locality. It is the duty

---

[1] Butler, *The Tory Tradition* (John Murray), 'Lord Salisbury.'

[2] Barclay, *The Turco-Italian War and its Problems* (Constable), chap. ii.

[3] Bentwich in the *Journal of the Society of Comparative Legislation* (New Series, No. XXIII.), November 1910, gives an admirable non-technical account of Lord Stowell's life and work.

of a judge sitting in an Admiralty (prize) court not to deliver occasional and shifting opinions to serve present purposes and particular national interests, but to administer with indifference that justice which the law of nations holds out without distinction to independent States, some happening to be neutral and some belligerent.'

When it is realised that he delivered over two thousand judgments, upon each one of which he lavished jealous care, it can be understood that he left upon the body of international law, which was still very largely viscous in its nature, the stamp of his personality and of the systematisation of his logical processes of thought. The sanity of his judgments, aided by their impartiality, have made them accepted by the world as the foundation upon which other prize court decisions must be built. He gave decisions on the treatment of vessels taken captive, on contraband, blockade, trading with the enemy, and trade domicile in war. Circumstances may have changed, and international agreements since his day have cut down the rights of maritime capture, penalising here as elsewhere the belligerent in favour of the neutral, but the principles which he established have been adopted in all codification of the law attempted since that date, and were the guiding principles of belligerent practice throughout the recent war. When we add to the work accomplished by Lord Stowell the decisions given by other great prize court judges, as, for example, the great American lawyers, Marshall and Story, it is easy to see that men like these, no less than Grotius, have played their part in erecting the fabric of an organisation calculated to obviate the mischiefs of international rivalry.

## CHAPTER V

### THE LEGISLATIVE PERIOD

*Legislative Period.*—Up to the present, in tracing the growth of a world organisation, one has seen the historical development of Europe render some fixed international procedure necessary ; one has seen how, impressed by the realisation of this fact, some men have urged forthwith particular forms of international machinery, others have sought to evolve by logical process the principles upon which such machinery should act. One has seen in the *Balance of Power* and the *Concert of the Powers* names for two international forces, evoked by the stress of circumstance, so convincingly final in their ability to meet a need that it appears that the ordinary processes of human development must before long give concrete and written recognition to ideals that had rapidly become a commonplace in the Press as well as in the Chancelleries of modern countries. Before that should finally be so the nations were to experiment once more—this time not so much in the judicial or the political sphere as in what one may term the legislative. In other words, the writer upon International Law before the end of the nineteenth century had primarily to concern himself with precedents drawn from international practice. From the beginning of the twentieth century onwards he began to concern

himself chiefly with the construction and interpretation of a code of law.[1]

On St. Bartholomew's Day, August 24, 1898, Count Mouravieff, the Russian Foreign Minister, addressed letters to the diplomatic corps at St. Petersburg, in which he referred to the desire which the Emperor, his master, had for the 'maintenance of the general peace and a possible reduction of the excessive armaments which were burdening the nations.' These first approaches were not received with any very great enthusiasm, but on January 11, 1899, the Russian Foreign Office sent out another circular, in which it proposed certain definite topics for international discussion. These comprised such subjects as the limitation of armaments, the modification in the direction of increased humanity of the laws of war by sea and land, and the acceptance in principle of the employment of mediation and arbitration by nations impartial on the points at issue, with the object of preventing armed conflict between States: finally, this last point reached, the establishment of a uniform practice in the exercise of such good offices. With the consent of the Dutch Government, the Czar proposed that a meeting to discuss these questions should be immediately summoned at The Hague. The meeting took place on May 20, M. de Staal, the first Russian delegate, presiding over its deliberations. After sitting for two months a report of proceedings was drawn up. It was accompanied by three conventions; also by some declarations, resolutions, and

[1] Higgins, *Hague Peace Conferences* (Cambridge University Press), provides a wealth of information on what I have called the legislative period.

expressions of opinion, of less importance for the present purpose than the three conventions. These latter (as well as some of the former) received solemn ratification by the Governments of all the greater Powers.

The first Hague Conference of 1899 did nothing definite to procure another meeting save that in one of the clauses a wish was expressed that certain matters should be inserted in the programme for a conference in the near future. This conference was proposed by President Roosevelt during the Russo-Japanese War in 1904. The Czar intimated that it was desirable to wait till the war was over, and that he should then summon the second conference himself. To these suggestions the President acceded. The second *Hague Conference* met accordingly June 15, 1907, consisting of forty-four delegates as opposed to the twenty-six of the first conference. On the paper of agenda the proposals of chief importance concerned the desirability of (*a*) improving the 1899 convention as to the pacific settlement of international disputes, particularly with reference to the court of arbitration and the international committee of inquiry, (*b*) of enlarging the 1899 convention relative to the law and custom of war on land, and (*c*) of elaborating a convention relative to the usages of naval warfare. To obviate the necessity of going into detail, the attached chart, indicating side by side the conventions of the 1899 and the 1907 conferences, will show both the multiplicity of the delegates' activity and the kind of questions about which their debates centred.[1]

[1] I owe to Professor Higgins the idea of the parallel presentation of the various conventions.

The briefest glance at the headings here set out makes it clear that here is a gigantic international act of legislation differing from the treaties that have gone before, such as those which closed the Napoleonic or the Crimean wars, not only in bulk, but in its general intention to bring certainty out of doubt as to correct international practice in a number of directions in which States are perforce brought into friendly as well as hostile contact. Agreements of so wide a scope are naturally enough subjects of contention, and no convention encountered more scepticism, when the British delegates reported home to England, than that, the twelfth, providing for an international prize court. Questions were immediately asked as to the nature of the law that would be administered in it. So much discrepancy between British-American and continental practice in settling maritime questions was known to exist that on February 27, 1908, the British Government addressed a circular to Germany, the United States, Austria, Spain, France, Italy, Japan, the Netherlands, and Russia, suggesting a fresh conference to investigate the law of maritime warfare. The conference met at London, and produced in 1909 the notorious Declaration of London,[1] or codification of the law upon this subject, which takes rank in importance with the 'acta' of the two Hague Conferences. After being much discussed, the Declaration of London was rejected by the House of Lords. Throughout

[1] Bray, *British Rights at Sea*; Bowles, *Sea Law and Sea Power*; Bate, *An Elementary Account of the Declaration of London*; Cohen, 'The Declaration of London,' and the *Quarterly Review*, No. 427, April 1911, may be consulted for varying estimates upon the Declaration of London.

| Convention No. | 1899. | 1907. | Convention No |
|---|---|---|---|
| 1 | **FOR PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES**<br>**Title 1.** On the Maintenance of the General Peace. *Art.* 1.<br>**Title 2.** On Good Offices and Mediation. *Art.* 2—8.<br>**Title 3.** On International Commissions of Inquiry. *Art.* 9—14.<br>**Title 4.** On International Arbitration. *Art.* 15—57.<br>Chapter 1. The System of Arbitration.<br>Chapter 2. The Permanent Court of Arbitration.<br>Chapter 3. On Arbitration Procedure.<br>**Title 5.** General Provisions. *Art.* 58—61. | **FOR PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES.**<br>**Title 1.** On the Maintenance of the General Peace. *Art.* 1.<br>**Title 2.** On Good Offices and Mediation. *Art.* 2—8.<br>**Title 3.** On International Commissions of Inquiry. *Art.* 9—36.<br>**Title 4.** On International Arbitration. *Art.* 37—90.<br>Chapter 1. The System of Arbitration.<br>Chapter 2. The Permanent Court of Arbitration.<br>Chapter 3. On Arbitration Procedure.<br>Chapter 4. On Arbitration by Summary Procedure.<br>**Title 5.** Final Provisions. *Art.* 91—97. | 1 |
| | | **LIMITATION OF EMPLOYMENT OF FORCE FOR RECOVERY OF CONTRACT DEBTS.**<br>*Art.* 1—7. | 2 |
| | | **RELATIVE TO THE OPENING OF HOSTILITIES.**<br>*Art.* 1—8. | 3 |
| 2 | **THE LAWS AND CUSTOMS OF WAR ON LAND.**<br>*Art.* 1—5.<br>***ANNEX.***<br>**Section 1. Belligerents.**<br>Chapter 1. Qualifications of Belligerents.<br>Chapter 2. Prisoners of War.<br>Chapter 3. The Sick and Wounded and Geneva Convention.<br>**Section 2. Hostilities.**<br>Chapter 1. Means of Injuring the Enemy; Sieges and Bombardments.<br>Chapter 2. Spies.<br>Chapter 3. Flags of Truce.<br>Chapter 4. Capitulations.<br>Chapter 5. Armistices.<br>**Section 3. Military Authority over the Territory of the Hostile State.**<br>**Section 4. The Interment of Belligerents and the Care of the Wounded in Neutral Countries.**<br>60 *Articles.* | **THE LAWS AND CUSTOMS OF WAR ON LAND.**<br>*Art.* 1—9.<br>***ANNEX.***<br>**Section 1. Belligerents.**<br>Chapter 1. Qualifications of Belligerents.<br>Chapter 2. Prisoners of War.<br>Chapter 3. The Sick and Wounded at Geneva Convention.<br>**Section 2. Hostilities.**<br>Chapter 1. Means of Injuring the Enemy; Sieges and Bombardments.<br>Chapter 2. Spies.<br>Chapter 3. Flags of Truce.<br>Chapter 4. Capitulations.<br>Chapter 5. Armistices.<br>**Section 3. Military Authority over the Territory of the Hostile State.**<br>56 *Articles.* | 4 |
| | | **THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN WAR ON LAND.**<br>Chapter 1. The Rights and Duties of Neutral Powers. *Art.* 1—10.<br>Chapter 2. Interment of Belligerents and Care of Wounded on Neutral Territory. *Art.* 11—15.<br>Chapter 3. Neutral Persons. *Art.* 16—18.<br>Chapter 4. Railway Material. *Art.* 19.<br>Chapter 5. Final Provisions. *Art.* 20—25. | 5 |
| | | **STATUS OF ENEMY MERCHANT SHIPS AT OUTBREAK OF HOSTILITIES.**<br>11 *Articles.* | 6 |
| | | **CONVERSION OF MERCHANT SHIPS INTO WAR SHIPS.**<br>12 *Articles.* | 7 |
| | | **AUTOMATIC SUBMARINE CONTACT MINES.**<br>13 *Articles.* | 8 |
| | | **BOMBARDMENT BY NAVAL FORCES IN TIME OF WAR.**<br>Chapter 1. Bombardment of Undefended Ports, Towns, Villages, Dwellings, or Buildings. *Art.* 1—4.<br>Chapter 2. General Provisions. *Art.* 5—7.<br>Chapter 3. Final Provisions. *Art.* 8—13. | 9 |
| 3 | **GENEVA CONVENTION AND MARITIME WAR (1864).**<br>14 *Articles.* | **GENEVA CONVENTION AND MARITIME WARFARE (1906).**<br>28 *Articles.* | 10 |
| | | **RESTRICTIONS ON CAPTURE IN MARITIME WARFARE.**<br>Chapter 1. Postal Correspondence. *Art.* 1 and 2.<br>Chapter 2. Exemption from Capture of Certain Vessels. *Art.* 3 and 4.<br>Chapter 3. Regulations Regarding the Crews of Enemy Merchant Ships Captured by a Belligerent. *Art.* 5—8.<br>Chapter 4. Final Provisions. *Art.* 9—14. | 11 |
| | | **ESTABLISHMENT OF AN INTERNATIONAL PRIZE COURT.**<br>**Title 1.** General Provisions. *Art.* 1—9.<br>**Title 2.** Constitution of the International Prize Court. *Art.* 10—24.<br>**Title 3.** Procedure in International Prize Court. *Art.* 25—50.<br>**Title 4.** Final Provisions. *Art.* 51—57. | 12 |
| | | **NEUTRAL RIGHTS AND DUTIES IN MARITIME WARFARE.**<br>33 *Articles.* | 13 |

[To face p. 26.

its supporters, including, it has been stated, the Admiralty, showed singular lack of vision by considering the process of blockade chiefly as a weapon to be employed against the British Empire ; as a weapon of offence it was hardly at all considered. The result, however, of rejection by the Upper House enabled the Government at the outbreak of the European War to adopt it as the basis of their practice, making such alterations as prudence at the eleventh hour suggested.

At the signing of the peace the mind of the peoples of all countries was predisposed in a new way to seek peace, ensue it, and ensure it. Their leaders bowed before the general will and, instructed by the experts, found that there was a rich heritage of experience, speculation, and constructive experiment, accumulated since the passing of the Middle Ages, of which the three experiments in legislation above described form the latest and the richest fruit. In evolving a League of Nations scheme they incorporated the ideas of those who had laboured before them, but they were not content with their ideas alone. It is of the essence of the Paris scheme that it is something more.

## CHAPTER VI

### THE LEAGUE OF NATIONS

*The League of Nations.*—'Examine the "Treaty of Peace": you will find everywhere throughout its manifold provisions that the framers felt obliged to turn to the League of Nations as the indispensable instrumentality for the maintenance of the new order it has been its purpose to set up in the world of civilised men.' So spoke President Wilson, on July 10, 1919, on his return to the United States, when presenting the Peace Treaty to the Senate for ratification. He was but echoing the words of General Smuts, written in 1918, before the peace delegates had found their way to Paris. 'It is not sufficient for the League to be a sort of *deus ex machina*, called in in very grave emergencies when the spectre of war appears; if it is to last it must be more. It must become part and parcel of the common international life of States, it must be an ever-visible, living, working organ of the polity of civilisation. It must function so strongly in the ordinary peaceful intercourse of States that it becomes irresistible in their disputes; its peace activity must be the foundation and guarantee of its war power.' These two utterances indicate just how the Paris scheme for a League of Nations adds to all previous schemes,

tending in the same direction, an idea which is novel and of high importance. In designing a League with a continuous life, and yet a life dependent always upon the continued assent of the participating nations, the Paris scheme avoids two dangerous extremes. It neither aims at erecting a super-State, reducing the nations of the world to vassal dependencies or component provinces ; nor does it rest content with the alternative open to the world during the epoch of the Hague Conferences and the Hague Tribunal, the erection of an impartial international body to which voluntarily, and in consequence fitfully, the disputants among the nations might resort. At Paris was drawn up, in the words of the illuminating commentary of the Government White Paper, ' a solemn agreement between sovereign (and independent) States, which consent to limit their complete freedom of action on certain points for the greater good of themselves and the world at large.' As many writers have pointed out, there is nothing excessively novel in such action nor derogatory to the dignity of the States themselves. States have limited their power of independent action often-times before : in matters, for example, of securing common postal regulations, or of Red Cross activities, or, to take a greater subject, in their invoking the joint action of the Concert of the Powers, whether with much or with little success is not a question here in point, in matters like the Eastern Question. It is no more derogatory to their sovereign independence so to do than for a Rugby football club to bind its action, permanently in effect, by the regulations of the Rugby Union. Such sacrifice on its part is a necessary condition of each club performing its own functions without producing

chaos in the world of Rugby football, as those who remember the game half a century ago will bear full witness.

*The Flexibility of the League's Constitution.*—Similar moderation is shown by the framers of the League as regards the actual framework of the League itself. It is a commonplace among students of history and politics that constitutions are either fixed or flexible.[1] They may be of such a nature that at any moment the legislative body or other organ of the Power in question, such is the completeness of its power, can change even the whole constitutional machinery of the nation upside down with the same ease that it can pass a Bank Act or alter the incidence of national taxation. Such a constitution is that of Great Britain, where, the King, Lords, and Commons jointly consenting, there is no part of the machinery of government that might not be altered. Countries with a fixed constitution, on the other hand, have removed their machinery of government outside the operation of ordinary legislative or executive enactments. Thus the Canadian Parliament cannot, theoretically at least, without the consent of the Imperial Parliament, alter the constitution which Canada adopted at the time of confederation. The American Congress cannot alter the constitution of the United States. It needs special machinery and special processes to do so. It sometimes happens that communities have the choice as to which type of constitution they prefer. A fixed constitution gives, up to a point, stability, certainty, safeguards against the monopolising by any one group of the

[1] See Bryce, *Studies in History and Jurisprudence*, vol. i. Essay iii. Dicey, *Law of the Constitution*, 'The Sovereignty of Parliament.'

resources and the policy of the community—all boons appreciated by men with a stake in the common stock and common fortune of the country, whether under a professedly democratic form of government or not. By analogy there was much to say against a flexible form of constitution for a League of Nations composed of forty-five communities, separated by such vast distances that indirect representation in the common councils had to be applied in a form that strains that theory of democratic government almost to the breaking-point. But in erecting a permanent international authority out of the delegation of certain powers by the participating States, the framers of the Paris scheme made no attempt to fix upon succeeding generations a cast-iron system. 'Recognising,' they write, 'that one generation cannot hope to bind its successors by written words, the Commission has worked throughout on the assumption that the League must continue to depend on the free consent, in the last resort, of its component States. . . . If the nations of the future are in the main selfish, grasping, and warlike, no instrument or machinery will restrain them. It is only possible to establish an organisation which will make co-operation easy, and hence customary, and to trust in the influence of custom to mould opinion.' In concrete form this attitude finds its expression in articles providing alike for withdrawal from the League and for the amending by constitutional methods of its provisions (Articles I and XXVI).

This breadth of attitude upon the framers' part answers another objection that has sometimes been brought against the Paris scheme. It is pointed out that, whatever may be their intention, they have in

fact gone far to fix the limits of each nation and to make perpetual the present geographical division of the world. To say so is unjust. What has been done is to provide that when a change is necessary it shall be after discussion and debate, not by means of war and violence. Moreover, to avoid the charge that the League is the fruit of interested parties, anxious to consecrate the status of the moment, the membership has been extended to the widest limit, including even a repentant Germany, when that is proved to have existence. Thus constituted, no nation can feel itself unrepresented. For the rest, those who have confidence in the enduring powers of the League rely upon the educative effect of the ' New Order ' of international relations. It is significant, of course, to notice that a specific condemnation of the later activities of the Holy Alliance is inserted in the treaty by a clause which, through a guarantee to countries against aggression from without, asserts, by implication, the sanctity of domestic national affairs (Article X).

*The Mandatory System.*—The collapse of the Central Powers and Russia, together with the strain placed upon other countries, belligerent and neutral, throughout the war led in 1919 to something like a European *débâcle*. Sections of the old empires and kingdoms had shot off from the old organism and floated pilotless, held together only, and perhaps temporarily, by intensity of racial feeling, itself, if undisciplined, no very desirable factor in the European situation. Among these sections of the defeated empires many different types existed: there were Armenia, Syria, Palestine, Mesopotamia, German South-West Africa, the islands of the South Pacific,

for example.[1] Were all these to be regarded as booty for the victors, to be the objects of a scramble now and a constant cause for wrangle through the ages in addition? In answer to this question, the framers of the League were determined to invite the Powers to subscribe to the following three principles:

(1) That these territories should not be annexed by any single Power.

(2) That any authority, control, or administration which should be necessary in respect of these territories and peoples, other than their own, should be the exclusive function of, and should be vested in, the League of Nations and exercised by or on behalf of it.

As General Smuts, however, pointed out in his famous pamphlet, administration of a country conducted jointly by the Powers had not infrequently been tried in history, had usually been found wanting, and had very seldom endured more than the briefest length of time. The history of modern Egypt, for instance, provides examples of something so close to such an undertaking as to suggest the gravest warning as to its advisability. The way out of the dilemma was found in what is called the *Mandatory System*, and led to a third recommendation to put beside the other two:

(3) That it should be lawful for the League of Nations to delegate its authority, control,

[1] See Ralph Butler, *The New Eastern Europe* (Longmans, Green & Co.); also Lord Olivier, *The League of Nations and Primitive Peoples* (Oxford University Press); also General Smuts' pamphlet, *passim*.

> or administration in respect of any people or territory to some one State whom it may appoint as its agent or mandatory, upon conditions which it shall originally lay down, for the fulfilment of which it shall continually remain responsible, and which, in case of need, it shall be at liberty to change.

It is apparent at the most cursory inspection of these suggestions that the mandatory theory by its elasticity was well calculated to meet the divergency of the situations with which the Powers were confronted. To a thoughtful student of the centuries-old growth of the British Empire, or the 'twenty-one years' history' of the world policy of the United States, it must appeal both as an arresting thought and as a device which it would be criminal not to put to the experiment. To the Briton, or man from the Dominions, of strong imperial views, as also to the citizen of the United States, it would seem but concrete recognition of a commonplace of our imperial doctrine, in that it took from us the theory that our power was but a trust administered in the interests of those we have been called to rule, and in the interests of all that makes for progress in the world. It was again and again asserted by Lord Cromer, who knew, as few men know, that region where colonial government abuts on foreign policy, that the reason why the British Empire proved so little irksome to the other nations of the world, and provoked so little practical obstruction, lay, and lay only, in the fact that, despite our obvious shortcomings, the verdict of history did in fact acknowledge that we approached colonial questions in the spirit

of men administering a trust.[1] The framers of the Paris scheme may have evolved a new name for an old condition, and if their work has been well wrought and proves enduring, is it fanciful to class with them in merit the thousands of the administrators through our Empire and the colonial dependencies of the United States, whose lifework, most often unrequited, has shown that the mandatory theory of colonial administration has already proved itself a not unfulfilled ideal?

[1] I am pleased to notice that this opinion concerning Lord Cromer, which was written before they appeared, is emphasised by an admirable series of articles on the Egyptian situation which have during August and September 1919 been appearing in *The Times*.

## CHAPTER VII

### THE LEAGUE'S MACHINERY

*The Machinery of the League.*—The organs of the League are four in number : (1) The Assembly ; (2) the Council ; (3) the Secretariat-General ; (4) the Permanent Court of Justice.

(1) *The Assembly* consists of representatives of all States which are members of the League. These representatives need not be official spokesmen of their Government. There seems to be no question affecting the existence or organisation of the League itself which it is not within its competence to consider and decide. It may at any time advise the reconsideration by members of the League of treaties which have become 'inapplicable' (*i.e.* obsolete), and the consideration of international conditions, the continuance of which might endanger the peace of the world (Article XIX). This defines its position in a way that should extend its powers considerably beyond those ever claimed for a Hague Conference, which was more in the position of a body called to debate certain branches of internatioual law at the suggestion of one or more of the European or American Foreign Offices. It is also charged with confirming the appointment of the Secretary-General and with the admission of new members to the League—

this last by a two-thirds majority. It may also at its meetings deal with any matter within the sphere of action of the League or affecting the peace of the world, thus perhaps forming the vehicle through which the Governments of the Powers will give consent to alterations in international law, and to the many conventions for joint international action that are sure to be required. It does not appear that its decisions will have to be ratified by or submitted to the Council, the framers of the Paris scheme preferring to leave vague the relation between the Assembly and the Council, a gap which conventional practice will in time fill up, but which perhaps savours a little too much of certain British, American, and Canadian Civil Service war improvisations. On the other hand, it must be remembered that with the exception as to the admission of a new member of the League, and as to the passing of certain alterations in the constitution, and as to certain arbitral reports made by the Assembly on questions referred to it for examination, its action in all cases is bound to be unanimous.

The Assembly is the supreme organ of the League, but it is a body of nearly 150 members, whose decisions to be valid require the unanimous consent of nearly fifty States. A much smaller body is required for the ordinary practices of international co-operation, still more for dealing with emergencies. This is provided in

(2) *The Council*, which is the central organ of the League, and is endowed with large powers. The unwieldiness of the Assembly is avoided by making this a body composed of the political chiefs of the greater Powers, *i.e.* Great Britain, France, Italy, and

Japan, and of four other Powers selected at intervals by the Assembly. In this one authority has seen the utilisation of the idea which lay behind the Concert of the Powers ; to others it will seem that the framers of the scheme have had in mind the meetings of the British War Cabinet during Mr. Lloyd George's administration.[1] Like this, the Council was called into being as a small body from within a larger, and, like this, it will have the expanding capacity which enables it to call to its councils the parties interested in a specific question under discussion. Like the Assembly, it can consider any matter within the sphere of action of the League or affecting the world's peace ; and as in the case of the Assembly, its decisions, except in the case of certain specified exceptions, must be unanimous, there being, in the opinion of its creators, 'little practical advantage, and a good deal of danger, in allowing the majority of the Council to vote down one of the great Powers.' Of its other functions those most important are :

(*a*) To formulate plans for the limitation of national armaments, and to advise how best to prevent the evil effects attendant upon the private manufacture of arms and munitions.

(*b*) To advise upon means whereby 'the territorial integrity and existing political independence' of all member States may best be preserved against external aggression.

(*c*) To deal with international disputes submitted to it, and make recommendations within six months, and also to propose means of giving effect to the decision of any Arbitral

[1] See the first report of the British War Cabinet, 1917.

Court the award of which is not being carried out.

(*d*) To be the authority for the settlement of such disputes between member States as are not referred to arbitration.

(*e*) To recommend what share each member State shall contribute to the armed force to be used by the League against any member who breaks or disregards its covenants for peaceful settlement of disputes with other members.

In the words, however, of the White Paper commentary, 'there is real advance of immense importance in international relations in the mere fact that the national leaders of the British Empire, the United States, France, Italy, and Japan, each in touch with the political situation in his country, are to meet together once a year, at least, in personal contact for an exchange of views. It may be added that there is provision, with safeguards, for admission to the Council of Germany and her allies, and of a Russia restored to corporate international activities.'

(3) *The Secretariat-General*, or permanent international Civil Service, will, if it can get cohesion and an international moral without sacrificing contact with reality, play a big part by substituting for the paper proposals of the scheme an organisation working with a healthy and normal activity. The duty of the Secretariat-General is to keep all records, procure information, and communicate with all parties to cases; also to publish every treaty or international agreement entered hereafter into by any member of the League, no such treaty or engagement to be valid till so published.

(4) *The Permanent Court of Justice* will act both as a bench of judges to answer points of law submitted to it by the Assembly or the Council, and as a court competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Council is charged with the formulation of a scheme for the establishment of such a court. How far this will be amalgamated with the Hague International Tribunal, how far it will confine itself to being a court of law, and not of arbitration, and how far it will take the place of the proposed but never realised International Prize Court of the second Hague Conference is not apparent. These questions are probably left for the Council to determine. Sentences in the White Paper commentary indicate that the framers of the scheme wished to emphasise the legal as opposed to the political nature of the court.[1]

*The Prevention of War.*—It must be, however, by its ability to prevent war that the efficacy of the Paris scheme will be finally judged. Rightly this has formed the main idea of the object of the League in the mind of the ordinary man, to whom the excursions of the League into the sphere of controversial labour questions and the like (Article XXIII) are regarded as a somewhat dangerous experiment. The White Paper commentary gives seven independent headings under which the efforts of the League's constructors can be grouped.

(1) *Limitation of Armaments.*—The members of

[1] The whole question of an International Court of Justice is well discussed by Oppenheim, *International Law*, vol. i. (2nd edition), pp. 522 ff., though I do not share his view as to the desirability of an International Prize Court.

the League bind themselves to recognise that the maintenance of peace is bound up with the reduction of armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations. The Council is charged with formulating for every Government a scheme by which such a principle can in each case be carried out. This proposal must be considered by the nation affected, and, if accepted, the quota allowed it must never be exceeded. On the other hand, every ten years the matter must come up for fresh discussion. In the same way the Council must deal with the desirable course of abolishing the private manufacture of munitions. To facilitate the action of the Council in these undertakings, the Governments undertake to interchange full and frank information.

(2) *A Mutual Guarantee of Territory and Independence.*—On the one side the United States was loath to be bound down to the famous Article X, which asserts this territorial guarantee and charges the Council with seeing that it is carried out. On the other hand, nations, whose proximity to the Central Powers has taught them 'too late that men betray,' naturally made their entry into a League of Nations conditional upon such general guarantee as a substitute for the armaments and reassuring alliances upon which they would otherwise be trusting. Without a doubt this forms a difficult and crucial condition of the League of Nations. See, however, above, p. 32. The territorial integrity or the independence of any member of the League being violated, it would appear that the aggrieved party would bring the matter at once before the League,

though any third party is at liberty to do so. The aggressor would then be bound to put his case before the Council, and both parties would be bound to refrain from war until three months after the award by arbitrators or the report of the Council. If either party did not so wait, the ban of the League could be called down upon it, and all members would be compelled to sever relations with it. If, on the contrary, the arbitration, when given, showed unanimity among all the members of the Council, with or without a majority of the Assembly, according as the Assembly had or had not been called in as additional arbitrators (the parties to the dispute not being reckoned as members of the one or the other body for this purpose), and if the arbitration were not then accepted, the recalcitrant State would have committed an act of war against the League by proceeding to go to war against any one of the League's members. If it merely neglected to conform with the decision, not actually making war at the same time, it would fall into the mercy of the Council, which is charged with determining on the course to be adopted by the League.[1]

Here there would seem to be a difficulty. Modern democracies are not easily worked up to the point of hostilities, particularly when the issue at stake is remote and to the public unfamiliar. Again, the

[1] It seems convenient to describe here the ordinary procedure of international arbitration cases, the promulgation of the sentence, and its reception by the parties interested, because the importance of this most disputed of all articles (Article X, establishing a territorial guarantee) indicates the desirability of as exhaustive a discussion as possible. The reader will realise that the same procedure and conditions attending judgment would hold good whatever the matter arbitrated upon.

incidence of the burden of declaring and conducting war is not uniform. For Holland in 1916 to have declared war on Germany, its powerful next-door neighbour, would have had more immediate and crushing effect upon its national life than a declaration of war on Germany in 1916 by the Argentine or the United States would have had on the national life of those countries. As the constitution of the League now stands, the Council, when either of the three cases above indicated arises between it and a recalcitrant member, may find great apathy upon the part of democracies, not intimately affected by the question, in taking up with force the Council's side, whatever the said democracy's representative in the Council might have promised. To execute the sentence the Council might, of course, make mandatories from among the Powers, which appreciated the issue, but as all the nations will have by then given the recalcitrant Power good cause for war, the execution cannot be so restrained to one or two among them. The only way out seems to be in postulating of the 'new order' a desire to avoid and not provoke disputes, and in a thorough ventilation by all means known to experts in publicity of the points at issue, the attitude assumed by all parties during arbitration, and the amount of force which can in the end be brought to bear upon recalcitrancy. The student of the Paris scheme will be blind if he ignores such difficulties. Experience of arbitration in our domestic affairs gives hope that a vigorous executive handling of awkward situations may render them not insuperable. They may work out, as the White Paper commentary suggests, in a number of supplementary defensive alliances, a solution indicated

by the Franco-British-American proposed treaty. In some cases, however, one must admit the difference between defensive and offensive alliances is a thin one.

(3) *An admission that any circumstance which threatens international peace is of international interest.*

(4) *An agreement not to go to war till a peaceful settlement of a dispute has been tried.* See below, p. 45.

(5) *Machinery for securing peaceful settlements with provision for publicity.*[1]

Here it is important to realise the difference between matters justiciable and non-justiciable. It is obvious that certain disputes between nations involve legal questions, the interpretation of treaties, or the bringing of old-established practices of international law into harmony with modern needs and new conditions. Such a dispute was the North Atlantic Fisheries dispute, involving, among other points, the interpretation of a century-old treaty.[2] Other disputes touch not law, but policy. The behaviour of Germany in the Agadir crises [3] was both illegal and destructive of the public peace ; but when Germany [4] adopted Nietzschean ethics in its conduct

[1] It is particularly encouraging to realise that the use of publicity in international affairs at last seems realised. It is a subject upon which much might be written. Much is suggested by my friend M. Stéphane Lauzanne's able book on de Blowitz and by Barrett-Lennard and Hoper's study, *Bismarck's Pen.* See also Busch, *Bismarck : Some Secret Pages of his History*, passim.

[2] Sir Erle Richards, 'North Atlantic Fisheries Dispute,' *Journal of the Society of Comparative Legislation*, November 1910.

[3] Tardieu, *Le Mystère d'Agadir.*

[4] H. W. C. Davis, *The Political Thought of Heinrich von Treitschke* (Constable), is a book which suggests several forms of action upon the part of States which it is difficult to class as justiciable.

during the years before the war, it is not always easy to declare its conduct actually illegal. The Hague Tribunal has always acted as a court administering both law and disinterested counsel, based on common sense and a desire for amicable settlement. If the new Permanent Court of Justice confines itself to giving legal judgments, based on the large and ever-growing body of international law, and, considering that the enthronement of law, the only alternative to war in the long run, badly needs the continuous development of such a tradition of jurisprudence, it may be thought wiser that it should, then many cases which may arise can never be settled by this Court. The framers of the Paris scheme, realising this, provided several alternative methods of settling or adjudicating upon disputes. The commentary in the White Paper gives these five alternatives :

(*a*) The Council may keep the matter in its own hands, as it is certain to do with any essentially political question in which a powerful State feels itself closely interested.

(*b*) It can submit any dispute of a legal nature for the opinion of the Permanent Court, though in this case the finding of the Court will have no force till endorsed by the Council.

(*c*) While keeping the matter in its own hands it can refer single points to the Permanent Court for judicial decision.

(*d*) There is nothing to prevent the Council from referring any matter to a committee, or to prevent such a committee from being a permanent body. An opening is left, therefore, for the reference of suitable issues to such non-political bodies as the 'Commission of Conciliation,' which are desired in many quarters. The reports of such committees would, of course, require the approval of the Council to give them authority, but the Paris scheme leaves wide room for development in this direction.

(*e*) The Council may refer the dispute to the Assembly. The procedure suggested under (*b*), (*c*), and (*d*) will then be open to the Assembly.

As to the reception of awards made by any of these means, see pp. 41, 42, the processes in question referring not only to disputes over territorial integrity.

(6) *The 'sanctions'* (punishments upon pain of which acquiescence is assured) *to be employed to punish a breach of the agreement not to go to war till a peaceful settlement of a dispute has been tried.*— See above pp. 41–44. It will be noticed that **these punishments** (the severance of relations with a recalcitrant State, financial, commercial, and political) **only come into force mechanically** in the case of a Power going to war without submitting the dispute for arbitration, or of going to war in the face of testimony through arbitration, that it does so with unanimous opinion against it in the matter of dispute. A Power's refusal to accept the award of arbitration, unaggravated by recourse to war, leaves the determination of the next step in the power of the Council. Often, of course, this step would be taken in the same direction.

(7) *Similar provisions for settling disputes where States not members of the League are concerned.*— These follow in the main the ideas suggested for the arbitration of ordinary disputes, but leave a greater width of discretion in the hands of the Council.

These are the chief features of the League of Nations, in which the efforts of many generations have found an issue. One thing alone is certain— that the scheme will fail unless mankind realises that it does provide a way out of war, and that war wastes alike the capital of vanquished and of victors.

This scheme differs from all its predecessors in that it does not erect a cast-iron machine for settling the quarrels of the nations. It is more human and more sensitive than that. It would be truer to say that one can look away from the actual machinery, which it happens to necessitate, and can think of it as a reduction to logical form on paper of the thought of men who have that which in great diplomats is half-instinctive, the power of foreseeing trouble, and, in the strength of that knowledge and their knowledge of the world, so shifting the 'points' that the trouble is side-tracked. Certainly there never was a time so auspicious as the present for its introduction. Bitterly the great mass of men have learned the waste of war, and victory, hailed with gratitude such as the world has never seen, has none of the tawdry splendour for the Allied victors which it held for the one side in the last great European war. The great mass of the suffering people of all types and classes feel, rightly or wrongly, that their foreign statesmen failed them. Some are turning and in their ignorance reaching out from sheer despair to the frenzied remedies of the 'international,' or worse. There is a chance that the mass of men may rally to a constructive Internationalism which preserves and not destroys the tradition of the nation State. It is wise neither to talk, nor to pitch our hopes, too high. The new diplomacy is bounded with the same limits as the old. At its best it gives embodiment, more consonant with the habit of men's thoughts to-day, to the principles and the ideals that inspired the old diplomacy at its best period. The men who will serve the new diplomacy are certainly not wiser than the men who served the old; they certainly have less experience of international affairs. No

tradition of diplomacy, neither old nor new, can be effective in a major sense. Capitalistic greed and mob ignorance have at times informed the foreign policy of States ever since man gave way to his gregarious instinct. The old Chancelleries were, in the last resort, the servants of the State, alike in monarchies and in republics. The Geneva delegates will find themselves the same. They will only have rather better instruments to work with.

To sum up in a sentence the chief effect of the Paris scheme when ratified, the nations have pledged themselves not to go to war without waiting for reason to have its chance. A nation cannot reach the benefits of such a scheme as this if it takes up also the doctrine of aloofness in international affairs. Because the framers of the Paris scheme show in almost every clause that they know its limitations, it is the part of wise men to rally to their handiwork.

# PART II

## CHAPTER VIII

### THE LEAGUE IN ACTION—FIVE YEARS OF LEAGUE HISTORY

For one writing at a moment separated by five years from the date of the creation of the League of Nations, the question of the prospects of that project takes on a novel aspect. The organisation responsible for the administration of one of Europe's richest districts and of one of Europe's more crowded ports, the instrument of Austrian and of Hungarian financial reconstruction, the ultimate guardian of wealthy and widely-flung mandated territories, has a position in world affairs the reality of which no one who has the smallest practical experience of those affairs will minimise. And if there be sceptics to assert the transitory nature of these, and of other, functions of the League, they will be found more commonly outside, rather than inside, the boundaries of the British Empire. The movement within that Empire for the recognition of so-called 'Dominion status' has had few greater victories than that on the day upon which the covenant was drafted: and, if the pages of the Dominion Hansards testify to the fact that the League of Nations has for the citizens of any one of our Dominions a rather different significance to that which it claims in the Mother Country, it is due to the consideration that

it has this very special position in the pages of Dominion history. But if events have seemed to justify the optimism of five years ago, they have also rendered it impossible to be content with a simple question as to whether the League of Nations will survive or wither. They indicate that we are confronted with a preliminary question as to which of two theories as to the nature of the League is destined to predominate.

For without a doubt events have brought to light the existence of two schools of thought. There is the school which, while safeguarding itself from the accusation of attempting to erect a super-state, conceives of action by the League as unitary or automatic action: and there is that school which believes to be unwise all action by the League which does not have its origin on each occasion in the will, the coalescing wills, of the component states. There is a temptation to identify each of these points of view with specific countries, parties or individuals : to do so would be to seize on a half-truth. It might be nearer truth to say that each is an attitude of mind adopted at times by all nations, individuals, and parties, and final truth may lie in neither camp. In a later chapter [1] there is an attempt to find a reconciliatory theory. Meanwhile, the purpose of this book will best be served by an attempt to do justice to both tendencies of thought.

Nor is it a hard task to do justice to any policy which, in concentrating attention upon the central mechanism rather than the component states, seeks to enlarge the scope of action of the League. *De l'audace encore de l'audace* is more than a mere battle-cry : in politics, as well as in the field, there is an *élan* engendered by success. 'A League policy,'

[1] See chap. xii.

'A League attitude,' though these be obnoxious phrases to many prudent persons, are phrases which, if the League be not guided by very foolish ones, must increasingly correspond to reality : while in these days of popular government and journalistic publicity, the wisest appeal may not reach even attentive ears if it be pitched in too low a key. In the crucial weeks of September, 1922, during which the fate of Austria hung in the balance, it was faith and imagination, not ca' canny counsels, which prevailed. A man might well argue that the danger which lies behind the present delimitation of the European countries can only be mitigated if the claim to an exclusive right of revision be boldly made by, and allowed to, an organisation impartial, and of experience, acting with unanimity, and speaking in the name of all the sovereign states. He might equally well contend that, with the development of air activity, civilisation starts at the top of a long, untrodden and ill-lighted corridor ; and that the nations should move down it, a solid phalanx, arm in arm. Lastly, to those who deplore the fact that the League has extended its activity far beyond such objects as the suppression of armed conflict, it might somewhat cogently be pointed out that in this world political, financial and social issues are so intricately interlocked that the League would lose touch with it by any other policy. The deeper the root, in other words, the more robust the plant.

This, and more than this, no doubt, lies behind the contentions of those who hold the unitary, the automatic, theory. It is an opinion justified in the belief of the writer, or to be justified, more by what may happen in the future than by what has happened in the past. It shirks the issue to pronounce it the evangel

of the super state. There is one test only of its soundness. It lies, as was repeatedly foreshadowed in the official commentary upon the covenant, in the contrast between the high measure of success which has attended the efforts of the League when it has had behind it the promptings or, at worst, the acquiescence, of the nations, and, on the other hand, the failures, varying in dramatic obviousness, which have attended its efforts when these have been present only in a measure. Thus, in 1920 in the Aaland islands controversy, the decision of the League was generally accepted : in 1921 the much more acute Serbo-Albanian crisis was handled and overcome. The first dispute was laid before the League by Great Britain which, in so doing, had the tacit approval of all the major Powers. As regards the second, Albania, indeed, owed its existence to the Second Assembly, and when trouble arose later it was with feeling among the major Powers, of relief combined with hope, that that quack obstetrician, the League, having conducted the case throughout by the least professional of methods, was, by a telegram from Mr. Lloyd George dated September 7th, made responsible for seeing the delicate and convulsive infant through a post-natal epilepsy. With these two incidents may be contrasted the action of the League with regard to Armenia at the end of 1920 and the Graeco-Italian controversy of more recent memory. During the eleventh session of the Council at Geneva the League found itself faced with a suggestion that it should take action to mediate between the Armenians and the government of nationalistic Turkey. Despite the warning which might have been gathered from the rebuff of one sulky government—that of the Soviet

republics—less than a year before, and despite a speech of warning from Lord Balfour, wiser counsels were rejected and approaches were made to the Administration of the United States and of other Powers, the barren result of which so entirely justified, down to detail, the prophetic utterances of the British representative that a less sophisticated body might have attributed to him the gift of second sight. Of the unfortunate Corfu incident this only need be said, that no one who reads impartially the record of what happened at Geneva will think that the Council behaved with anything but the most admirable restraint. The Conference of Ambassadors, the body admittedly seized of the dispute, found itself treated with so sweet and logical a reasonableness that it could do no other than adopt, in the main, proposals for a final settlement which, in the beginning, had been blocked out by the League. That there was ultimately a departure from the spirit of these proposals, that the authority of the League was subjected to a violent challenge, springs from the fact that the League was never, either in fact or in spirit, seized of the dispute. A preliminary spirit moving towards a peaceful settlement was not present among the Powers. It might, as has often been the case in the history of League reconciliations, have arisen among them at a later stage ; but, as it was absent, and settlement in this case brooked no delay, it was force which was left to be the arbiter. It is to some a positive recommendation of the League that in the heat of the moment it was recognised that in a matter, which turned only upon a change of attitude on the part of certain Powers, nothing was to be gained by the noisy assertion of extended claims.

To take this view may seem to some a choice of the less heroic ideal, and, merely in that, as was hinted above, to run the risk of failure. No action without unanimity? Thus perished old Poland, they will point out, paralysed by a constitution legalising anarchy. And yet there is always a danger in arguments based on historical analogy. Can men limited by mortal vision be certain that the Polish situation, assuming it to have been accurately depicted for us by historians, is once more here reproduced? Continental contemporary thought applied the epithet 'Polish' to the form of government which existed in England of the Eighteenth century, the ins and outs, the moves and counter-moves, of the great Houses. We can see the shallow nature of the judgment: and what may have been very injudicious in Warsaw two hundred years ago may none the less, in totally different circumstances, prove to be the soundest policy in Geneva of to-day. No considerations will alter the fact that the leaders of League policies may go so fast, or so far, that for the support of some states they will pay the price of losing the adherence of others. And it need not be merely a question of a living and a growing concern taking the perhaps necessary risk of not carrying with it the disgruntled. When in the eleventh session of the Council cogent arguments prevented the creation of a *permanent* body to advise the League in financial and economic matters, there was something more involved than the question as to whether the League should extend the scope of its functions beyond the limits originally contemplated. To the inhabitants of the New World the economic problems of Europe are not, or do not seem to be, their problems: and, in voicing, and in carrying, the objections of Canada to

the erection in permanence of a body of this kind, it is not too much to say that the œcumenical nature of the League of Nations was preserved. We are too close to the sessions of the Fifth Assembly to pass a final judgment, but the measures taken in connection with compulsory arbitration have been criticised from the same point of view. Nor need such criticism be pessimistic criticism. In a speech, delivered in the House of Lords on July 26, 1924, the words which follow were used by Lord Balfour, whose views upon the League it is always tempting to quote, alike, because he has represented our country at far more meetings of the Council of the League than any other statesman and, because on more than one occasion action by the Council depended upon nothing but the driving force which he provided.

'The League of Nations has been in existence but a very short time. During that short time it has undoubtedly produced a spirit among nations which did not exist before. I speak with confidence about that, because I have seen it, and very few of your lordships have seen it. My noble friend (Viscount Cecil of Chelwood) has seen it, for he has been at Geneva. He has seen how these nations work together ; he has seen the spirit which animates them, a spirit which is not merely an addition of all the separate frames of mind, of all the separate Foreign Offices, of all the countries engaged, but is something quite different. It is a kind of collective sentiment which may in some respects be powerless, which may in some respects run beyond possibilities, but which is undoubtedly something new in the world. . . . The world cannot spare it, and, as the spirit which animates it goes on, I really see no reason to

doubt that people will feel that armaments may be diminished. The intense fear and jealousy which certain nations, for historic reasons, entertain against one another will, in the course of time, diminish in acuteness and intensity ; at least, I hope they will. If they do not, it may be—I do not deny it—that civilisation is going to tumble in the test. . . . The fact that that may come unless some control is put upon these international passions undoubtedly must gradually have an effect. Undoubtedly that effect will be fostered in its growth by such work as the League of Nations is doing, and such as I believe in the future it will do.'

These wise words once more keep in the centre of the picture not the League of Nations so much as the component governments, of whose views the central organisation acts as the necessary mediatory.

There is, moreover, one other aspect of the divergence between what may be called the ' unitary ' and the ' mediatory ' theory, an aspect of interest not so much to statesmen, or historians, as to jurists. Is it fanciful to say that in this new direction is displayed the veteran antagonism between the Anglo-American and the continental schools ; between, that is, the body of those who think in terms of case law, and those who shun a law that does not tend to become comprised within a code ? In other words is a happier world order to be built up seriatim, as the problems arise, in the piling up of good precedent on precedent, alike in processes of legal judgment, in arbitration, in reconciliation, in co-operative execution of sentence : or, on the other hand, should the statesmen of the League here and now think out ahead all the circumstances in which trouble may some day

arise, that they may have an organisation adequate to meet it, and elaborated in detail. As one whose first experience of the development of the public law of Europe were the proceedings of the Hague Conferences the writer is, perhaps, unduly biassed against carrying a legislative technique too far into the sphere of foreign politics. Any one generation may fruitfully bequeath to the next principles to govern its judgment or its action ; but the next generation is almost bound to assume the insertion of a clause *rebus sic stantibus* in any detailed international compact, bequeathed by its predecessor, to do this or to refrain from doing that.

Five years' work is not easily described with the brevity which is essential for the purpose of a handbook. There are many admirable books, exhaustive in their scope, for the names of which it will be most convenient to refer to the appendix.[1] Here, after treating certain preliminary considerations, it is proposed, for the sake of clearness, to follow once more the order adopted in Part I (with one or two additions) and to discuss the organs and the activities of the League in this order.

(A) The Machinery of the League in operation :
  (1) The Council,
  (2) The Assembly,
  (3) The Secretariat,
  (4) The Court of International Justice.
(B) The prevention of war.
(C) The mandatory and other obligations of the League.
(D) The International Labour Organisation.

[1] See Appendix B.

# CHAPTER IX

## A—THE MACHINERY OF THE LEAGUE

SECTION 1.—*Preliminary remarks.*—The meeting place of the League is now likely to be fixed at Geneva. Land has been presented, and plans exist, for the construction of the necessary buildings. It may be difficult to select the nation to supply the architect. Is it not an opportunity for securing from an architect of the United States a group of buildings like those which have made Washington a dream city among the capitals?[1] At least, one may hope that, in planning the 'lay-out' of the offices, some vision may be vouchsafed of the centre of the League as it is bound in time to be; and that allowance may be made for the institutions of all kinds that are likely to spring up in its vicinity. At first the Council was peripatetic and there seems to be no reason, save that of expense, to prevent it assembling elsewhere than in Geneva. The court of International Justice will sit at the Hague when the Peace Palace is ready for its sessions.

At the first Assembly an attempt was made to secure the adoption of Spanish along with French and English as the official language (before the Court, by the agreement of the Bench and litigants, it is possible

[1] Alas, as I correct the proof, an announcement has been made that no plans submitted by an American architect can be considered.

to hold the proceedings in any language). This proposal was defeated largely for reasons arising out of the technical difficulties which it would create for the secretariat and publicity departments. The decision, perhaps inevitable, is in some ways deplorable. Spanish is the tongue of so many peoples, and behind a difference of language lies so much that is significant in a different manner of approach towards a problem, that a certain strain has been placed upon the Hispanic members of the League. But, after all, the oriental members are still more handicapped, and to depart from the established practice in some directions might end in administrative chaos. Even the production of equivalent French and English versions has its difficulty; and mistranslations have crept in, even to the covenant, as in the well-known example of the word 'inapplicable' (applied to treaties in Article XIX), which should read 'obsolete.' From time to time opponents have attacked the League as the instrument of British, or of French, Imperialism. It will safeguard itself from such attacks by the largest possible concessions in the direction of utilising every kind of national proficiency, but it is not unreasonable to demand of this generation what our fathers demanded of theirs, that they should conduct their diplomacy in French. If every kind of national proficiency be utilised in conducting the business of the League, there is nothing in the use of the French tongue which will prevent the world realising, as it is good that it should realise, that for example the Dutch, as well as the British, have a theory of colonisation, or that academies of Latin culture do exist in Rio de Janeiro as well as upon the banks of the Seine. Meanwhile the League has shown its good sense in rejecting the use of all

so-called international languages. Such measures only paint over the fissures which divide the nations. Half the trouble that arises between Englishmen and Americans comes from the fact that they use the same words in a different sense.

In diplomacy there comes a certain motive force from the mere avoidance of mistakes. Experienced diplomats have recognised that there have been occasions on which it is possible to say that the League has avoided major blunders and the kind of pitfall, constantly recurring, which ensnares the Embassy or Legation which has not an experienced chief to repress among the secretaries the dangerous virtue of a disproportioned zeal or knowledge. On at least eight occasions the German government officially protested to the League against decisions of the Council or the Saar commission : but alike over the mandatory system, as over the presence of French gendarmerie, over the institution of courts martial, as well as over other administrative acts in the Saar basin, the Council rightly for the moment backed the men in charge, a body to whom afterwards none the less, in July, 1923, at its twenty-fifth session, it gave through Lord Cecil some exceedingly unpleasant hours of cross-examination. In the same fashion the Council refused, in April, 1920, to step outside the Covenant to accept at the request of the Allied Powers a mandate for Armenia, while in the same year it refused to intervene between France and the Hedjas, as also between the Bolsheviks and Persia. The same attitude in 1921, adopted in connection with disputes between Chili and Bolivia and the Costa Rican embroilment with Panama, must have won the good graces of the United States. Two years later, despite the

application of Finland, the Council, relying on a decision of the Court of International Justice, wisely declined to risk, over the condition of Eastern Carelia, another snub at the hands of the government of the Soviet republics.

It is a commonplace that the League of Nations is only at present a League of certain nations. At every meeting some of the lesser powers have been unrepresented for reasons of economy. Argentina left the First Assembly in a huff but has not at present officially withdrawn its membership.[1] The Chinese delegation ostentatiously withdrew from the meeting of the Fifth Assembly as a protest against China's exclusion from the Council. It may be hoped that neither defection is permanent. The ideas of Soviet Russia hardly run parallel to those of the leaders of the League. A blank, and perhaps natural, refusal was returned to the application of the League in 1920 to undertake an enquiry into Russian conditions. When, as has just been indicated, perturbed by the lack of settlement in Eastern Carelia, a land between the White Sea and the Baltic, with which Finland marches and a district which formed the setting of Finnish national legends, Finnish statesmen laid the matter before the Council, Russia refused to plead. Stories of the suppression of the Georgian rebellion, of vigorous action against Latin and other clergy, not to mention intrigue in countries as near as Roumania and as distant as Manchuria—all these would seem to make a cause of embarrassment to the League at present any negotiations with the Bolsheviks, however tentative.

[1] It has resumed payment of its contribution (1924). The only powers now in arrears are Costa Rica, Honduras, Nicaragua, Peru, Bolivia, Liberia, Luxemburg, Persia.

Germany, it appears, may be admitted to the League at a special session of the Assembly before the year 1925 is out. The admission of Germany to the League has been spoken of by some as a panacea for half the troubles which vex Europe. It is a sobering thought, however, to reflect that the application for membership came from a government locked in a simultaneous struggle alike with a communistic, as with what is, in fact, a Fascist party, and from a Federal authority hampered by a movement towards state particularism of which the development will certainly be considerable, perhaps dramatic.

The attitude of the United States has been consistent. Those who best know the United States will easiest comprehend the attitude of their government. In proportion as a government of a country is dependent in the long run upon popular suffrage it is drawn to confine its foreign policy within the bounds of realism. The same is doubly true of democratic federations, and especially of those to which, for geographical reasons, all but the broadest questions of foreign policy are but secondary issues. It is this which explains a seeming contradiction between such purist doctrine in official quarters and the unbounded generosity of the citizens, and even of the government of the United States, towards enterprises for international relief, or reconstruction, under *private* patronage. It is only as League decisions are translated into reality in world affairs that the League will receive respect at Washington. 'Fine' speeches, the most admirable resolutions, the most logical of admonitions, are as futile as they are undignified. It is wise to realise that for the present, and for the future so far as man can see, the foreign policy of the United States

excludes by its essential nature participation in the League. Their government has gone out of its way to dissociate itself from League activities on more than one occasion, as in the question of mandates in 1921, in schemes for the control of the private manufacture of arms in 1923, and in opposing the absorption by the League's health organisation of the *Office international d'Hygiène* in Paris. The League itself appears in the utterances of the United States officials seldom by name, more often by periphrasis. It would be an impertinence to make this a subject of unfriendly comment, but he is blind who would ignore it. It has given, one may add, a very special significance to the views of Canada as speaking from the standpoint of North America.

In one respect the unexpected has happened in connection with the League. There have been prophets who foretold that it was in its humanitarian aspect that the League of Nations would make its most compelling appeal to the Powers, and that it would be success achieved in the humanitarian field that would pave the way for successes gained in others. That seems hardly likely to be the case. The plea for combined effort towards the stamping out of typhus in Poland could hardly have been urged more cogently than it was urged before the Council in the summer months of 1920. Great Britain, moreover, gave a good start to the fund raised for the purpose by the example of a big subscription. Yet the Second Assembly received the report that less than one hundred thousand pounds had been subscribed by all the Powers, and learned that the necessary work had been greatly handicapped by lack of funds. The deplorable condition of Greek refugees in the Smyrna

area was brought before the Third Assembly, which decided to undertake relief work within the limits financially feasible.[1] The representative of Great Britain promised, on behalf of his country, a donation of fifty thousand pounds, but despite the enthusiasm of the delegates the response both then and afterwards was meagre. If the League does appeal to the nations its ability to perform political services does not seem likely to be overshadowed by achievements of this nature.

Section 2—(A.) *The Machinery of the League.*—There are numerous treaties dealing in detail with the work of the chief organs of the League. A perusal of the abstract of the League's activities, which appears at the end of this work in Appendix A, will best convey to the reader the nature of these organs and also their activities. Here it will rather be attempted to single out in connection with (1) the Council, (2) the Assembly, (3) the Secretariat, (4) the Court of International Justice, such incidents as seem especially to throw light upon the method by which they have been working.

(1) *The Council.*—This body has borne the brunt of the work. Meeting some four times in the year, forming the connecting link between the League and the outside world, it has almost, but not quite, taken with regard to the Assembly a position which bears an analogy to the relation which the British Cabinet bears to the House of Commons. This seemed to be the case in a marked degree during the Corfu crisis, when the Council did not hesitate to alter the agenda and procedure of the Assembly meeting, withdrawing awkward subjects from discussion. The Council

[1] The loan for the exchange of Greek and Turkish nationals, arranged by the Treaty of Lausanne, has been a success, but this is different.

preserves a continuity and commands resources which the Assembly lacks. It has not proved possible for the larger Powers to be represented on the Council by their foreign secretaries : for this a dramatic appearance before the Assembly by officials of the importance of Mr. Macdonald and M. Herriot provides no substitute. It may be that the original intention in this matter cannot be carried out, but the strength of the Council seems to have arisen from the co-ordinated effort of experienced statesmen working at problems over a period of time. The standard set by the representatives is high, and excellence seems to provoke excellence. The earlier reports in the official record are verbatim and repay careful examination. They confirm the impression that for any country not to send of its best is to strike a real blow at the League's authority. Practice in England seems to be moving towards the charging of a special minister with the responsibility of dealing with League matters. This, to the layman, seems admirable, and provides justification for the continuance of certain offices whose existence appeared to have historic, rather than practical, justification. The problem, however, cuts deeper and involves the whole question of liaison with the Secretary of State for Foreign Affairs. Into such arcana the layman's judgment cannot hope to penetrate.[1]

The abstract in Appendix A reveals, on study, incident after incident in which the Council has unravelled a tangled skein. There can be few more dramatic, or more creditable, than the negotiations

[1] It may be noted that Mr. Austen Chamberlain, as H.M. Principal Secretary of State for Foreign Affairs, has resumed responsibility for attendance at the meetings of the Council (Rome, 1924) and for the transaction of League business.

over the Austrian financial crisis at the time of the Third Assembly in September, 1922. For some months before this date measures for the relief of Austria had been the constant occupation of men of business and of officials, among whom stood out Sir William Goode. Comparatively little progress had been made. By May, 1922, the matter was before the League in a report presented to the Council. In August the Supreme Council of the Allied Powers was urging League action with insistence. The British representative on the Council of the League, Lord Balfour, made the matter one for his urgent personal concern. The prospects of a favourable settlement seemed gloomy. The Italian government was more than dubious. Mr. Lloyd George was not disposed to look with favour on participation by the British Empire in the guarantee of any loan which it might be necessary to raise. It was the dominance of the situation by Lord Balfour and the Council which ultimately smoothed out all obstructions and gave another chance to Austria.

With the above, contrast another incident. The admission to the League of Albania at the First Assembly meeting of the League left undetermined the boundaries to be allotted to this principality of turbulent highland clansmen. On the withdrawal of the Italian and French troops of occupation the fat was in the fire. Faced with Jugo-Slav and Greek incursions north and south, the Albanian government approached the League, demanding as of right the boundaries of Albania as they were drawn in 1913. To this move the Jugo-Slavs and Greeks replied that the matter was one which could not come before the League for judgment since it was already under the

consideration of the Council of Ambassadors of the Allied and Associated Powers, a body, one may add, suspected of holding the opinion that the Albania of 1913 no longer existed in 1920. In this contention it seemed that the Council in the main concurred, and the matter might have been determined on these lines had not Fan Noli, the Albanian delegate at the Second Assembly, addressed a dramatic and convincing appeal to his colleagues. In the end, on the proposal of Lord (Robert) Cecil, a compromise was reached. The case was not removed from the arbitrament of the Ambassadors, with whom it indisputably lay, but the unfortunate tardiness of that body in reaching a decision received unpleasant advertisement, and a commission to visit Albania was appointed by the League and charged with the task of keeping an eye upon all subsequent proceedings. Contemporary opinion judged that the Assembly had shown up well, the Council and Ambassadors less happily.[1]

These two incidents may be selected as typical, each in its way, of the diplomatic methods of the League. They represent the triumph of reason on the one hand, of boldness upon the other. As the mind runs through the list of former ministers of foreign affairs it is impossible to resist the opinion that he cannot claim security of tenure in the halls of fame who has not shown himself a master in each technique. Can it be claimed that such dual mastery is in the reach of both the organs of the League, the Council and the Assembly? Enough has been said, perhaps, in previous pages to suggest that in the case of the Council the plea can be established. The action of large deliberative assemblies is often the result of

[1] Subsequent developments in this matter can be seen in App. A.

enthusiastic impulse. There is at least some ground for suspicion that Albania, the creation of Assembly fervour, has not its foundations upon rock. The excellence of the Assembly can not be deemed to rest on transactions merely of this kind. One must look longer and probe deeper.

(2) *The Assembly.*—It was a saying of the late Sir William Harcourt that, if the House of Commons should no longer exist and England were governed by the Civil Service, it would be governed perfectly for three years, at the end of which period every civil servant would be discovered one morning strung up to a lamp-post. It is misleading to look for an analogy between the position of the House of Commons and that of the Assembly, of the Council and that of the Civil Service, but it is true that the League would not last long were the Assembly to atrophy. In the meetings of the Assembly every small country sees a safety-valve. Alleged misgovernment in the Saar or in South-West Africa, the denial to India of a place proportioned to its dignity as an industrial Power, Canadian objections to the Tenth Article of the Covenant, these, and more matters like them, all received ventilation at the September meetings. Decisions are the more readily accepted by the aggrieved when it has been possible, not in the frigid atmosphere of the Council Chamber, but amid the formalities of an Assembly meeting, to liberate the soul. Powers are the more willingly delegated to the Council while the Assembly knows that it is not relinquishing the option of exercising identical powers. That is why, in every constituent article (the famous protocol of 1924 is the latest example), the authority of the Assembly is safeguarded by the allowance to it of

parallel and analogous machinery for action. In practice, partly from the infrequent occurrence of its meetings, it has taken administrative, arbitral and inspectatory action less frequently than the Council. Its nature is to delegate authority to experts, as in the Commission on Mandates, and to rely on the investigation of *ad hoc* bodies, such as the two Commissions upon Armaments, or the group in the Secretariat, which is engaged in studying the question of minorities. And it is only natural that it should be so. Its ultimate authority is none the less retained. The publicity attained by the League in European papers is on the whole inadequate. In some respects it may be desirable that it should be inadequate. The annual meetings at Geneva in September, however, opening, as has become the usual rule, with a report prepared by the Secretary-General on the activities of the League during the current year, demand and obtain publicity. If the Assembly did not exist, it would have had to be invented, for the organs of the British and French press, which bulge with detailed reports on every gust of 'American' opinion, rarely, with a few honourable exceptions, present their foreign intelligence in its European setting. Perhaps increasingly we shall see the latest world called into existence to redress the balance over-weighted by the new. Executively, then, the Assembly has its successes and its failures, its promise and the attendant risk, but it is not in either that the foundations of its existence are rooted. It has proved itself indispensable as secreting those forces which keep in health the system of the League and insure its functional soundness.

(3) *The Secretariat.*—The Secretariat comes well out of the best test of the efficiency of an administrative

office : one seldom hears about it. No one can follow the reports, still less attend the meetings, without feeling that the tone of the Secretariat must be healthy. The individual members impress on those who come in contact with them, that one has here to deal not only with civil servants but with apostles of the League ideal. And yet it is not from the Secretariat that emanate those theories which would erect for the League impossible ambitions. The spirit behind this new bureaucracy is neither that of proud and thoughtful leadership as in the Prussian Civil Service, nor the historic French tradition of administration, nor the enthusiastic, if impulsive, improvisation of the American official. The British tradition of the Victorian era seems to have been translated to Geneva, so that, when foreign critics of the League speak of a British domination in its counsels, it is, perhaps, as much this fact which they have in mind, if merely unconsciously, as any pre-eminent acumen in our representatives upon the other organs. The League has been fortunate in securing the services of eminent men in a temporary capacity. To take only two examples, and not to mention the work of Dr. Nansen, it was well served at Danzig by a British general, and on the Albanian Commission by a Danish professor : while a tribute of admiration must be offered to the admirable work done, on the position of minorities, largely under the inspiration of Professor Gilbert Murray. The information of this type now in course of accumulation must be unique and should lead to a far surer handling of what is well nigh a fundamental question.

(4) *The Permanent Court of International Justice.*— Earlier in this handbook (see pages 40, 44–46) there has been discussion of the points involved in the

erection of an International Court. It was there shown that there is room in international affairs for a court of law (*i.e.* administering law and not mere conciliation) as the necessary preliminary to the continuous development of a tradition of jurisprudence. Upon the elaboration of a scheme for such a Court the Council set to work in its second session by the appointment of a committee of jurists charged to draw up some draft proposals. Between June 16 and July 24, 1920, this Committee held no less than thirty-five official meetings at the Hague, the first and last of which were public. It is an open secret that the moving spirits of the conference were Lord Phillimore (Great Britain) and Mr. Elihu Root (United States). The result was a draft scheme and three recommendations (voeux) which latter urged the desirability of developing an academy of international law at the Hague, of holding periodical conferences for the advancement of international law, and the erection of an international criminal court. As no one of these recommendations was accepted by the Assembly they may be at present disregarded.

The scheme first came up for discussion at the eighth session of the Council, held at San Sebastian, and was referred at once for favourable consideration to the various nations being members of the League. By October, 1920, the Council, at its tenth session in Brussels, was able to discuss the Hague scheme, together with comments upon it, prepared by Monsieur Bourgeois, some observations communicated by the Italian, French, and Belgian Governments, and some proposed amendments handed in by Sweden and by Norway. The draft scheme, as it finally emerged, was submitted to the first meeting of the

Assembly in November, 1920. The Assembly immediately referred the matter to a committee (the third commission) presided over by M. Léon Bourgeois himself. Here there took place general discussion. It was then relegated to the closer examination of a sub-committee consisting of ten members, five of whom had sat upon the original committee of jurists at the Hague. The sub-committee had under consideration a very large number of amendments, some formally proposed by the various delegations at Geneva, some the suggestion of the International Labour Office. It became clear that the chief issue in dispute was the question as to whether the Court, when established, should have compulsory jurisdiction. On the third commission a majority advocated this proposal, though a strong and firm minority opposed it. In the sub-committee the suggestion was abandoned. It was agreed that the Court should have jurisdiction only by virtue of an agreement between the parties or by virtue of special treaty stipulations. The possibility, however, was opened to all those States which might participate in the creation of the Court, to sign a clause according to which they might accept, on condition of reciprocity, the compulsory jurisdiction of the Court in disputes of legal character. The draft, as finally adopted by the third commission, was referred back to the Assembly, and was unanimously adopted by that body on December 13. Three days later the protocol of signature was opened at the offices of the League, but the action of the Powers was so long delayed that it was only just in time that the required number of signatures was obtained, and the Court opened amid ceremonies of some solemnity on February 15, 1922. By the end of March in the same

year the Court had drawn up and published the first version of its rules and standing orders.

It is important to realise that the Permanent Court of International Justice does not destroy the machinery erected at the Hague Conferences of 1899 and 1907 for the settlement of international disputes. This could, it will be remembered, take two forms, either an International Commission of Enquiry or recourse to a Permanent Court of Arbitration. The first of these alternatives bears on its face its continental origin, for to a continental lawyer a *commission pour établir les faits* is a natural, almost necessary, instrument, for the purpose of establishing and sorting the facts, as a preliminary to submitting them to a court, where the Anglo-American usage would proceed at once with the trial and deal with the facts there. That an International Commission of Enquiry was not without its uses was proved by the fact that the Dogger Bank incident in 1904 was settled through its instrumentality. The Permanent Court of Arbitration on the other hand provided for ' the settlement of disputes between States by judges of their own choice and on the basis of respect for law.' The Convention of 1907 had created a panel of arbitrators chosen by the Powers subscribing to the Convention, each nominating four. From this panel in each case of an international dispute the disputants selected the arbitrators. The greatest stress was laid on, and elaborate precautions were taken to safeguard, the right of the disputing parties to select their judges. This enhanced the authority of the Court, but at the expense of preserving continuity. It is to the credit of the Hague system that between 1902 and 1914 the Court, thus constituted, successfully dealt with fifteen

cases, to which seventeen different States were party, cases which involved violation of frontiers, delimitation of territory, in Europe, Asia, Africa, and in North and South America.

Now the first and chief difference between the Permanent Court of International Justice and this Court is, that it is not a court of arbitration based on respect for law, but a full-fledged court of justice. The second difference, and it is hardly less important, is that its constitution displays a new kind of permanence. The judges are, it is true, originally chosen by the States, but they are not selected *ad hoc* for any particular dispute, when once it has arisen. They fill the bench of a court in permanent being. The method of their selection, too, shows the States acting at least in part through the means of intermediaries. The first stage in the election was the constitution of the various groups in each nation charged with the duty of nominating candidates. With those States which had participated in the Hague Arbitration Court it was in each case the four nominees on that panel of arbitrators to which reference has just been made. With States not so participant the Governments were now to nominate four persons. The next step was an invitation to the members of the respective groups to proceed, by groups, to nominate the candidates. The candidates proposed by each group were not to exceed four, and of these four not more than two might share the nationality of the nominating group. The nominees were required to be familiar with both French and English. No member of the Court, it was laid down, might exercise any political or administrative function in his own nation, or act as agent, counsel or advocate in any case of an international

nature. The names thus finally proposed were formed into an alphabetical list from which the Council and the Assembly made their choice. This choice was to be made regardless of the nationality of candidates, but it was enjoined that the whole body should represent 'the main forms of civilisation and the principal legal systems of the world,' phrases designed to safeguard the interests of Asiatic Powers and, it must be admitted, of somewhat vague significance. In the ultimate selection the Council and Assembly were to vote separately, and only such persons were to be elected as obtained an absolute majority within the two bodies. Voting might take place at least three times in order to fill as many seats as possible. If, after the third election, seats still remained unfilled, various alternatives were provided for breaking up the deadlock. On September 16, 1921, eleven judges and four deputy judges were elected, and the full Court came into operation. Under the Statute of the Court provision was made for the constitution of three special chambers (1) of Summary Procedure, (2) of Labour, (3) of Transit and Communications. The judges as elected were as follows :

| | |
|---|---|
| Signor Altamira .. .. | Spain |
| „ Anzilotti .. .. | Italy |
| „ Barboza .. .. | Brazil |
| „ di Bustamente .. | Cuba |
| Lord Finlay .. .. | Great Britain |
| Monsieur Loder (*President*) | Netherlands |
| Mr. Moore .. .. | U.S.A. |
| Monsieur Oda .. .. | Japan |
| „ Weiss .. .. | France |
| „ Nyholm.. .. | Denmark |
| „ Huber .. .. | Switzerland |

*Deputy Judges :*

| | | |
|---|---|---|
| Monsieur | Negulesco . . | Rumania |
| „ | Wang Chung Hui | China |
| „ | Yovanovitch . . | Yugo-Slavia |
| „ | Beichmann . . | Norway |

The death of Signor Barboza left a vacancy which was filled in September, 1923, by the appointment of Dr. Silvia Epitacio Passoa, a former president of the Brazilian Republic, while in 1924 M. Huber succeeded M. Loder as President of the Court. The chief criticism of the composition of the Court is directed at the absence of any representative of Muhammadan legal systems.

The Statute and the practice to date of the Court suggests the following observations as to its procedure and its practice.

(α) *Procedure.*—As a rule the full Court will sit, the number of eleven judges, if necessary, being made up by calling on deputy judges. The Court is improperly constituted if less than nine be present. To this, however, the three special chambers are exceptions. Further, it may be added, that when the full court is considering labour, communications or transit questions—that is, in the absence of a request from the parties to have the matter referred to the appropriate special chamber—technical assessors will be added to the Court, obligatorily in the case of labour questions.

After protracted discussion it was agreed, despite the claims of strict logic and pure justice, that judges of the nationality of the contesting parties should retain their place upon the Court : and that, should one of the parties only be represented, the other party should have a right to appoint a temporary judge of his own nationality : similarly, should the Court

include no judge of the nationality of the parties, both should appoint temporary judges who should serve in addition to the ordinary bench. This is by no means to reproduce the *ad hoc* appointment case by case of the benches of the Hague Arbitration Scheme. The nucleus of eleven, or at least nine, permanent officials prevents it being that. Moreover, as has been pointed out by M. Hammarskjöld, the learned Registrar of the new Court, the rôle of these extraordinary judges will not be so much to advocate the special point of view of their respective countries as to constitute a guarantee for the drafting of the award, or decision, in terms as little hurtful as possible to the national interest, or pride, of the parties concerned.

The Court is bound to meet every year on June 15, and otherwise when summoned by the President. It will have power to indicate any provisional measures which ought to be taken to preserve the rights of either party. Thus precaution is taken against the ability of any one party to create a situation which might strip a judgment, if protracted, of its value. Even more important is the right to give judgment under certain circumstances in the case of one of the parties not appearing. It is laid down, moreover, that the decision of the Court should have no binding force except as between the parties and in the special case. Earlier judgments will have, therefore, an indicative and not precedent value. The judgments theoretically are final. Revision can be asked only when new and relevant facts have come to light. But such facts must be brought forward within six months of their discovery and all judgments stand irrevocable after the lapse of ten years from their delivery. Dissenting judgments are to be delivered and published, another

departure from the procedure of Courts of Arbitration. And finally proceedings must be held in public unless the Court take formal order otherwise.

It will be seen from this description that there is here much unfamiliar as well as much familiar from the standpoint of the British, or the American, lawyer. The Court has the power to make its own rules, and will in time build up a new tradition. It will, no doubt, copy the nice tact displayed by the great early judges of the Supreme Court of the United States in their attitude towards the proud and sovereign litigants who pleaded before them. Without such tact, without a studious confinement of attention to the immediate points of disagreement, without a readjustment of the mind to think in terms of the life of States and in the consequent perspective, a great international experiment may come to nothing. It is not always realised that it was almost sixty years from 1789, when it was determined to have judicial settlement of disputes between the former British Colonies, and 1846, when the first final judgement, or decree, was entered in the Supreme Court of the United States in the case of Rhode Island *v.* Massachusetts—a long period in the life of a man, but in that of a nation but a day.

(β) *Jurisdiction of the Court.*—'The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force.' So runs the formal definition of its powers. At a later stage there will be something to say upon the design to make its jurisdiction obligatory. So long as it remains no question of compulsion, it may be anticipated that it will increasingly become the tribunal selected to assist in the settlement of international disputes just in so far as

such settlement depends upon the removal of uncertain questions of the law. It may be added that third States may intervene as parties, when they consider that they have a legal interest in the matter under reference, and when the Court approves the contention thus put forward. In this case the decision of the Court is binding on all parties intervening. The provision would appear to hold good as regards both forms of the Court's activity, both the rendering of judgment in disputed cases and the expression of opinion in answer to a question formally submitted. Moreover, when there is a question of the interpretation of an international convention this, when given, is to be binding on all the signatories who have been notified of the process and who have made use of the right to intervene.

Next, as to the law which shall be administered in the Court : there was, of course, the customary effort to secure the preparation of a code. It failed, as has been explained. Arbitrational procedure leaves to the Tribunal itself the decision as to the choice of rules upon which the Court shall base its judgment. For the Permanent Court of International Justice this alternative is not available. It is laid down that the Court should apply (1) International Conventions, establishing rules recognised by the contesting States, (2) international custom as evidence of a general practice as law, (3) the general principles of law recognised by civilised nations, (4) judicial decisions and the teaching of international lawyers as subsidiary means for the determination of the rules of law. It would seem that there has here been catalogued all the material that, from the British or American point of view, one could wish to see included. To the article concerning the

material rules to be applied the Assembly added the right for the Court to decide a case *ex aequo et bono*, if the parties thereto agree. By this addition there was something more intended than a declaration that, when all recorded conventions and precedents fail, there is the possibility of a recourse to common sense. It was rather that the Assembly had in mind to retain for the Court, beside possibilities of purely legal action, that of acting on demand as arbitrator. Also, perhaps, Monsieur Hammarskjöld is right in saying there was intention to equip the Court by this inserted clause with power to render what the French term *jugement d'accord*, with the ability, that is to say, to confirm by a judgment an agreement reached between the contending parties.

It should be noticed what exactly are the parties between whom the Court will render judgment. First, in the case of rendering opinions, it is at the request of the Council or of the Assembly, and of these alone, that such are given. A Government of a State or any other organ of the League is bound to use these two as intermediaries. As regards the rendering of formal judgments the statute of the Court contains the formal rule that only States and members of the League can be parties to cases before the Court. As to the vexed question as to whether a Dominion Government might cite the Mother Country before the Permanent Court of International Justice, one is tempted to quote the answer of a Dominion premier who replied that he preferred not to contemplate the possibility. For the present the matter may, without unreality, be left at that. Recourse to the Court is open to those States, not members of the League nor signatory to the act of its creation, under conditions

specially laid down. Neither the Council, nor the Assembly, nor any other organ of the League can appear before the Court as party to disputes. Groups of States are none the less permitted to appear as parties, so the States, represented on the Council, might, as a group, institute collective action. This, however, is a little different : yet it may well prove valuable when it comes to enforcing certain stipulations in recent treaties which concern the protection of racial or religious minorities.

# CHAPTER X

## DISARMAMENT

From the first the architects of the League of Nations saw that it was not sufficient merely to provide machinery for the settlement of international disputes. Behind that problem loomed the far more thorny question of disarmament. Article VIII of the Covenant took this into the League's cognisance ; and by Article IX authority was given for the constitution of a permanent commission designed to advise the Council on military, naval and air questions. By July, 1920, this body was able to report to the Council proposals for its own organisation and rules of procedure. The First Assembly, however, felt that it needed an advisory body in which would figure a sprinkling of those not specifically expert. Thus it formed the temporary mixed commission composed of men of business, labour leaders and politicians, beside soldiers, sailors and airmen. It must be confessed that very little progress had been made when, in 1922, this temporary commission was strengthened by the addition to its membership of Monsieur de Jouvenel and Lord Robert (afterwards Viscount) Cecil. The curtain then fell once more, though rumour reported that out of the amicable conversations of these two there were shortly to emerge constructive proposals. Two months

later the stage had been reached at which it was possible to present to the Third Assembly an official report to the effect that a draft treaty was now in preparation in the temporary mixed commission, and that this treaty had as its base the impossibility of separating the problem of disarmament from the question of the establishment of international security.

This was in 1922. In 1923 the draft treaty was submitted to the Fourth Assembly and, after discussion, was referred for criticism to the various Governments. At the Fifth Assembly a discussion of the problem figured as the principal item on the agenda. Of the twenty-six nations whose replies had been published to the request for criticism above referred to, very few only had expressed unqualified approval. So marked was the adverse criticism that it might almost be said that the draft of the Treaty of Mutual Assistance had been withdrawn before the Assembly had been opened. At least more than one alternative scheme engaged the attention of the expectant delegates. The situation was entirely changed after the speech of the British Prime Minister, Mr. Ramsay Macdonald. His attitude, foreshadowed in the British Government's reply to the Secretary-General of the League concerning the Treaty of Mutual Assistance (Government Paper Miscellaneous No. 13 (1924) Cmd. 2200, price 6d.), made it quite clear that, if a way was to be found out of the apparent deadlock which had arisen, it was to be found in a different direction to that indicated in the Treaty. The conciliatory reply of the French President of the Council, Monsieur Herriot, made compromise possible. The matter was referred to committees from which, in course of time, there issued the Protocol for the pacific settlement of

international disputes. This, after prolonged discussion, was adopted by the Fifth Assembly on October 2, 1924. The resolution which adopted it was unanimous, and was supported by the delegations of Great Britain and of all the British Dominions. What, then, was the nature of the abortive Treaty of Mutual Assistance, what was the point of view adopted by Macdonald, what was the nature of the Protocol, and how did this latter differ from the Treaty of Mutual Assistance ?

Perhaps it is most convenient to begin with a preliminary question as to the extent to which the Powers had under the Covenant fettered their freedom of combative action. The answer is quickly given, and it is to be found in three Articles of the Covenant. By Articles XII, XIII and XV it was agreed :

(1) That recourse to hostilities without waiting for arbitration or enquiry should bring down upon the offender immediate outlawry by mechanical severance of relations between the guilty party and all the remaining members of the League.

(2) That if the Council, when a dispute had been referred to it, came to an unanimous opinion, the members of the League would not go to war with any party to the dispute which complied with the recommendations of the Council's report.

(3) That in the event of any failure to carry out such unanimous award the Council should propose what steps should be taken to give effect thereto.

(4) That if the Council failed to reach an unanimous opinion (the representatives on the Council

of any party to the dispute not counting for this purpose) the members of the League reserved to themselves the right to take such action as they should consider necessary for the maintenance of right and justice.

To put this matter shortly, with the coming into force of the Covenant, arbitration of some sort in the case of international disputes became compulsory, as did, in effect, the acceptance of a *unanimous* decision of the Council in such disputes. The 'Corfu' incident appeared as a challenge to this state of affairs, but it may be said to have ended, if in anything, in a strengthening of the League's claim above described. The claim undoubtedly goes far. It is a fact of profound significance that the great European States should consent to be patient under this restriction of a practically unhampered sovereignty enjoyed throughout four hundred years. There are not a few authorities who would prefer to keep things at this stage, to wait for the registration of triumphs under this dispensation, before proceeding to evolve machinery in greater detail and of wider aims. Events have proved too strong for such restraining counsels.

Directly the question of disarmament was attacked, and directly this was seen to hinge upon the guarantee of security to all the nations, weak and strong alike, it became certain that the safeguards provided by the Covenant would be called in question. The tone of the provisions of the Covenant is legal. Was it not possible that while the lawyers disputed—perhaps merely over the terms in which a dispute should be submitted to the Council—nations or interests might perish, public opinion stiffen, commercial stratagems mature? If countries were to disarm they must

depend on a guarantee more obvious to the press and the public, more immediate in its operation, more concrete in its nature. The scheme embodied in the text of the Treaty of Mutual Assistance was then essentially of a political, rather than of a legal nature. The aim of this treaty was to combine the resistance of all members of the League to any act of aggression, or aggressive warfare, on the part of any Power. This guarantee constitutes the general treaty and was designed to ensure that any State, which might be the victim of aggression, should ultimately emerge victorious. To provide security against the immediate consequences of an invasion, or other hostile act, the signatories were to be allowed to conclude, as between two or more of their number, agreements complementary to the General Treaty. These so-called 'partial treaties,' permitted only for mutual defence, were to determine in advance the assistance which their signatories would give one another 'in the event of a particular act or acts of aggressive war.' To the benefit of these immediate or partial, as well as to the benefit of the more remote or general, treaties no State was to be entitled until it had begun the reduction of its armaments.

It was a striking feature of the treaty that no attempt was made throughout its clauses to define an 'act of aggression.' The difficulties in the way of so defining it are set forth in a 'Commentary on the Definition of the Case of Aggression,' drawn up by a special committee of the Temporary Mixed Commission on the reduction of armaments, which included among its members Lord Cecil, Monsieur Jouhaux, Lt.-Colonel Réquin, and Rear-Admiral Seagrove. This commentary is embodied, and can be read, in the proceedings of the Fourth Assembly, and it is only

possible here to summarise its points. It is pointed out that, as mobilisation will in future apply not merely to the army but to the whole country before the outbreak of hostilities, the real aggression may well antedate the mobilisation of men : and that this latter can consequently no longer serve as a conclusive test. Similarly the violation of a frontier is no longer conclusive evidence : it may be simply a means whereby a small Power, which is threatened by attack from a larger, can strengthen its position for defence. 'Moreover,' runs the commentary, 'when armies have been practically in contact on the frontier which divides their respective countries, it may be exceedingly difficult to obtain conclusive evidence as to which of them first crossed the frontier.' Intention of future aggression will also in many cases be no less difficult to determine, for enonomic measures, such as the organisation of industries and the purchase of raw materials, may be purely defensive or due to private commercial enterprise.

The reply of the British Government to the Secretary-General's request for criticism was despatched, July 5, 1924, and has been referred to on a preceding page. The inability of that Government to co-operate along the lines of the draft treaty was based upon a number of reasons, among which the more important were the following :

(1) The improbability of the Council of the League determining by a unanimous vote within four days from the notification of hostilities which of the disputant nations is the aggressor.

(2) The long delay liable to occur before the forces at the disposal of the League can be

brought into effective operation against an aggressor State.

(3) The tendency for the recreation of a European system depending upon alliances and counter-alliances should the formation of partial and complementary treaties be permitted.

(4) The unwillingness of Dominions, such as Canada, to participate.

(5) The unsuitability of the Council for assuming the executive functions which, under the treaty, any violation of the conditions of that agreement would cause it to assume.

For these, and for other reasons, the British Government held the view that the guarantee afforded by the draft treaty was so precarious that no responsible Government would feel justified in consenting to any material reduction of armaments in return.

Indeed so great was the dissatisfaction expressed with the terms of the treaty that, when the meeting of the Assembly opened, it was less this than a draft agreement, prepared by an important American delegation led by General Bliss, which was receiving major attention. The differentiating features of this scheme lay in the prominence assigned to the Permanent Court of International Justice, which was charged with making the decision as to the nature of each alleged act of aggression, together with other quasi executive duties, and in the provision of triennial disarmament conferences for taking stock and readjustment of the military situation in the world. But the clause which, more than any other, invoked attention (No. VIII), outlawed indeed the declared aggressor State but left to the discretion of the other

High Contracting Parties the measures to be taken to reduce the delinquent State to reason.

Mr. Ramsay Macdonald's speech before the Assembly was not perhaps a shock to those who had read the British answer just described. To continental opinion, however, its effect was startling. 'Si M. Herriot' wrote its Geneva correspondent in the *Journal des débats* next morning, 'qui se disait d'accord avec son collègue britannique, ne réagit pas vigoureusement demain, la cause de la paix et la S.D.N. subiront un échec difficilement réparable.' German opinion of course, where it was not purely cynical, was correspondingly elated at a declaration which bade the nations put no trust in preventative alliances, and which declared that the British Empire could have no part in a policy pure no doubt in its intention, but menacing to European peace in that it must end in creating a balance of power based on force. It is to the lasting credit of Monsieur Herriot that unmoved by one or two examples of unfortunate phrasing in the speech of Mr. Macdonald, and despite the obvious disillusionment of French anticipations, he delivered an oration which served as the basis of subsequent agreement. To the warning against all possible resort to force he returned as answer the dictum of Pascal :—'La justice sans la force est impuissante. La force sans la justice est tyrannique. La justice sans la force est contredite parce qu'il y a toujours des méchants. Il faut donc mettre ensemble la justice et la force, et pour cela faire que ce qui est juste soit fort et que ce qui est fort soit juste.' There he left it, preferring to take up the Prime Minister's advocacy of arbitration, which process he examined in detail. The issue, it seemed, was joined

between the 'chers collègues.' A deadlock appeared imminent. But in the words of a witty observer, 'L'amitié des deux ministres ressemble aux amours des dieux sur l'Ida, lesquelles etaient voilées d'un nuage,' and, before the ministers had departed from Geneva, they bequeathed to the delegates as a pledge of their affection an agreed course of procedure. The first commission was charged with the examination of Arbitration machinery and, in particular, of the famous Thirty-Sixth Article[1] of the Statute of the Court of International Justice. The third commission was to pursue an enquiry into the relation of security and disarmament. It was felt by the delegates that everything had been gained by the avoidance of a rupture, and rightly so, for out of the deliberations in committee issued the Protocol.

Enough has been said to suggest that in any new scheme it will be the legal, and not the political, side which will be pressed. The American project formed an example of reaction against the alliances and political conditions of the Treaty of Mutual Assistance. The same tendency was even more noteworthy in the Protocol. In the first place the Protocol did not touch the question of disarmament. This question was reserved for the consideration of an International Conference summoned to meet at Geneva on June 15, 1925. If the Protocol did not receive sufficient ratifications, there would be no Conference. Conversely, if the Conference did not succeed in producing a real measure of disarmament the Protocol fell to the ground.

In the second place it will be seen at a glance that

[1] Providing for the compulsory jurisdiction of the Supreme Court of International Justice.

the whole agreement hinges round the scheme for compulsory arbitration. Article 4, which is the kernel of the Protocol, abounds in subtle and ingenious devices for ensuring that a case shall be brought to arbitration. With this by way of preamble, let the reader consider a skeleton and over-simplified analysis of the Protocol.

### THE ARTICLES AND THEIR EFFECT

Article 1.—Signatories undertake to secure amendments to the Covenant on the lines of the provisions contained in the following Articles.

Article 2.—Signatories abjure the idea of war except in the case of resistance to acts of aggression or when acting as agent of the League.

Article 3.—The signatories agree to recognise as compulsory the jurisdiction of the Permanent Court of International Justice in all questions defined in Article 36, paragraph 2 of the Court's statute, to wit—

(*a*) The interpretation of a Treaty.

(*b*) Any question of international law.

(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation.

(*d*) The nature or extent of the Reparation to be made for the breach of an international obligation.

This undertaking to be without prejudice to the right of any State to make reservations compatible with the said undertaking: a right likely to be used by the British Empire for ensuring the continuance of its traditional interpretation of maritime law.

Article 4 : Section 1.—The Council, if it fails to settle a dispute referred to it under the terms of the Covenant, shall try to persuade the parties to submit the dispute to judicial settlement or arbitration.

Section 2*a*.—If this fails either party can request the constitution of a Committee of Arbitrators to be formed by agreement between the parties.

Section 2*b*.—If the parties cannot agree on the constitution of this Committee of Arbitrators the Council shall set it up.

Section 2*c*.—This Committee shall through the Council consult the Permanent Court on any points of law in dispute.

Section 3.—If none of the parties to a dispute asks for arbitration, the Council shall make another attempt to settle the matter, and if it reaches a unanimous decision (not counting the representatives on the Council of any nation party to the dispute) *the signatory States agree to accept that decision.*

Section 4.—If the Council fails to reach a unanimous decision it shall set up a Committee of Arbitrators.

Section 6.—The signatories agree to carry out in good faith any decisions of this Committee, the Council having power to take what steps it can to give effect to its decisions.

The above seven sections of Article 4 have in contemplation several, and perhaps exhaustive, alternative methods for both drawing disputes to arbitration and for enforcing the acceptance of decisions made even by committees of arbitrators which cannot reach entire unanimity. The framers of the Covenant never contemplated going further than provision for the enforcement of unanimous decisions. This is what is meant by the saying that the 'Protocol fills up the gaps left in the Covenant.'

Article 5.—If a State claim that a question under dispute arises from a matter which by international law is solely within the domestic jurisdiction of that party, the claim shall be referred to the Permanent Court. If the answer be in the affirmative, the provisions of Article 15, paragraph 8 (withdrawing such matters from the regulation of the Council) shall apply, and the Council shall make no recommendation.

It shall still (under Article XI. of the Covenant) be the friendly right of each member of the League to bring to the attention of the Council or the Assembly any circumstance which threatens to disturb international peace or the good understanding between nations. In which case the League shall take any action which may be deemed wise and effectual to safeguard the peace of nations.

There was no more controversial clause in the Pro-

tocol than this. The second half of it was added in answer to the demand of the Japanese delegates, who were understood to have in mind the emergence of the delicate issue raised by the desire of certain members of the League to prohibit Asiatic immigration. To the anxieties aroused by the insertion of this paragraph it has been answered that the regulation of immigration is one of those matters which it is certain that the Permanent Court would declare a question of domestic jurisdiction : that, consequently, in exchange for the insertion of the second paragraph of Article 5, anxious members of the League obtain international acknowledgement (1) that the Council can make no formal recommendation on the subject, but can only plead, or negotiate, with sovereign Governments, (2) that any sudden attempt to obtain the admission of Asiatics by force of arms would be resisted not alone by the nation concerned but by all the resources commanded by the League. Dislike of Asiatic immigration, however, like the Monroe doctrine or the British determination to command the seas, rests on deep-seated, perhaps instinctive, national sensitiveness. It is more than possible that this clause alone will wreck the Protocol.

Article 7.—Provision against the taking of sudden steps pending the arbitration of a dispute for the material alteration of the position. Provision of powers for the Council to detect and arrest any such steps.

Article 9.—Recommendation of the establishment of demilitarised zones.

Article 10.—Aggression is defined as resort to war in violation of undertakings in the Covenant or the present Protocol. The violation of a demilitarised zone. Refusal by a State to avail itself of the arbitral machinery of Article 4 or rejection of a decision reached by its means.

Provision that, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin on the belligerents an armistice and supervise its execution by a two-thirds majority. Any belligerent refusing to accept the armistice becomes an aggressor. *An aggressor, in any of the above senses, becomes liable to the sanctions (consequences) detailed in the next Article.*

Article 11.—The sanctions brought into operation against the aggressor State, or States, are those defined in Article XVI of the Covenant of the League, to wit—

(1) Severance by other States of all trade or financial relations and the prohibition of all mutual intercourse of nationals.

(2) Such action by land, sea or air as the Council of the League shall enjoin upon other members.

Agreement by the members of the League 'to cooperate loyally and effectively in support of the Covenant, in resistance to an act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.' Agreement among the members by mutual co-operation in such measures to minimise and to share equally in the burden involved.

Article 12.—Provision that the economic and financial organisations of the League shall work out the details involved in the employment of the above sanctions.

Article 15.—The cost of carrying out any of the above sanctions to be borne by the aggressor State.

Article 17.—Provisions as to the calling of the Disarmament Conference at Geneva on June 15, 1925.

The above form the principal provisions of the Protocol. It will be seen that it provides improved mechanism for the drawing of disputes to arbitration, leaves practically no loop-hole for escape from the necessity of arbitration, and makes acceptance of this necessity the test of that spirit of aggression which, in order to obtain a general disarmament, it seeks to exorcise. Time alone can show whether the public opinion of the world is prepared for such a scheme or

whether Lord Balfour's warning, quoted above on page 55 more corresponds to facts. It is the task of this handbook to expound the machinery of the League and not to prophesy.

It is none the less within the scope of the present work to assist its readers towards a clearer judgment by the examination of one line of criticism. To obtain from the French a more reasonable attitude towards the Reparations problem, the British Government undertook itself to adopt a more reasonable attitude towards the problem of French security.[1] France left at the mercy of its neighbours leaves a Europe fundamentally unsettled and always apt to be upset. At the best it leaves a disillusioned and a fractious France, an unwilling co-operator with the British Empire, perhaps a mischief maker in the Near and Far East, in Africa or in the Pacific. It is no helpful criticism of the Protocol to say that the Dominions will never take upon themselves its obligations. Would a direct pact made on behalf of the Empire with France for the maintenance of its security subject Dominion allegiance to a lighter strain? Would a pact signed by Great Britain, to the exclusion of the five Dominions, stand the test of war? Is there a fourth alternative to the general agreement of the Protocol, the specific pact with France or a policy of drift with all its danger? This is a question which must be furnished with an answer in the discussions which began directly the delegates of the Fifth Assembly scattered.

[1] Mr. Chamberlain's statement on behalf of the British Government to the Council of the League respecting the Protocol [Foreign Office Misc. No. 5 (1925) Amd. 2368, price 3d.] lays stress on the impossibility of accepting the clauses detailing the sanctions.

# CHAPTER XI

## THE OBLIGATIONS OF THE LEAGUE
## THE INTERNATIONAL LABOUR ORGANISATION

C. The mandatory and other obligations of the League

D. The International Labour Organisation.

The Mandatory System inaugurated under the auspices of the League has already been described (see above page 32). It was decided that the character of the mandates should differ according to the stage of the development of the people to whom the mandate was applied. Consequently mandated territories are divided into three categories :—

Category A (formerly possessions of the Ottoman Empire). These territories were inhabited by peoples deemed more able to participate in their own government. *Mesopotamia* and *Palestine* were allotted to Great Britain as Mandatory Power. *Syria* and *the Lebanon* were allotted to France.

Category B (formerly territories of the German Empire). Portions of *East Africa*, *Togoland* and *the Cameroons* were allotted to Britain, France and Belgium as mandatories.

Category C (formerly territories of the German Empire). Former German possessions in the Pacific

south of the Equator, with the exception of Nauru and Samoa were allotted to Australia as mandatory. Former German possessions north of the Equator were allotted to Japan. Samoa was allotted to New Zealand. Nauru was allotted to the British Empire. South-West Africa was allotted to the Union of South Africa.

In March, 1920, the Supreme Council of the Allied and Associated Powers asked that Armenia should be accepted by the League as a mandatory charge. The Council of the League replied sympathetically but pointed out that the League, not being a State, was totally unsuited to undertake this responsibility. It offered to try to find a mandatory. Attempts to secure the United States in this capacity were turned down by the Foreign Relations Committee of the Senate in May of the same year. No further steps were taken.

The constitution of the Permanent Mandates Commission was approved by the Council on December 1, 1920, while the First Assembly was still sitting. On December 17, 1920, the terms of the C mandates had been defined by the Council. The drafts of the A and B mandates were to be studied during the Council's twelfth and thirteenth sessions. On February 22, 1921, the Council of the League received a message from Mr. Colby, the Secretary of State in Washington, asking the Council to postpone its discussion of the mandates until the United States had had an opportunity thoroughly to examine the question. The note asserted the right of the United States to be consulted as to the allocation of mandated territory, and in particular objected to the allocation of the island of Yap to Japan. There is no need of

entry into detail in describing the subsequent negotiations. They were long protracted and it was not till May, 1922, that all American objections were withdrawn, and till July of the same year that at the nineteenth session of the Council the mandates were for practical purposes finally approved : and even then some minor matters were left open for subsequent decision. The Mandates Commission was at its start composed as follows :

| | |
|---|---|
| Monsieur Hiere d'Andrade . . | Portugal |
| Monsieur Beau . . . . | France |
| Honourable W. Ormsby-Gore | Great Britain |
| Monsieur Van Rees . . . . | Holland |
| The Marquis Theodoli . . | Italy |
| Madame Bugge-Wicksell . . | Sweden |
| Monsieur Kunio Yanagida . . | Japan |
| Monsieur Orts . . . . | Belgium |
| Duque de Terranova . . | Spain |

It held a first meeting in October, 1921, when it received reports from Great Britain, France and Belgium on what may be called their interim administration of the mandated territories. The second meeting was held on August 1, 1922, when the first annual reports were handed in. Much progress was made with drawing up instructions and questionnaires aimed at facilitating the preparation of such annual reports. There have been occasions upon which membership of the Permanent Mandates Commission has entailed even harder work than the examination of annual reports. Between the meetings of the Third and Fourth Assemblies an exhaustive enquiry was held into the suppression of the Bondelzwart rebellion in South-West Africa. Further detail in connection with the particular mandated territories, fascinating though

REDWOOD LIBRARY
NEWPORT, R. I.



it be, belongs to the separate history of each one of them rather than to a study of the League.

The League has also taken responsibility for the protection of minorities. Here it has avoided precipitate action but, as has been pointed out, is engaged for the present in accumulating material upon which to base and to recommend a detailed policy.

The League has undertaken the registration and, when possible, the publication of treaties. A treaty series is in course of publication in a special section of the official Journal.

The Administration of the Saar Basin has been entrusted to the League. The annual reports are published in the Journal and indicate that a somewhat agitated experience has been the lot of the members of the Commission. In the third meeting of the Assembly criticism of the administration became vocal, and produced in the end, at the Council's twenty-fifth session, an elaborate enquiry by the Council into conditions in the Saar Basin, a discussion in which the chief part was taken by Lord Cecil.

The fate of the League's administration of Danzig has been less stormy, possibly, as has been suggested, because here one official, not a council, was in charge. Sir Reginald Tower and General Haking alike discharged their duties with much tact and succeeded in making the almost unworkable work smoothly.

Finally the League undertook to supervise the execution of a plebiscite in Eupen and Malmédy. The conduct of this plebiscite was much criticised by the Germans, but it appears that the criticism was largely factious.

The International Labour Organisation. All countries which are members of the League form part

of the International Labour Organisation. Germany is also a member, as it was thought at the time of its creation that it would be absurd not to admit one of the greatest industrial Powers of Europe. The signatories of the Treaties which ended the war recognised that the well-being, physical, moral and intellectual, of industrial wage earners was of supreme importance. Accordingly they laid down very general principles for the regulation of labour conditions. They knew well that these were not complete and they left it to the Organisation to secure that they should be given, in due course, concrete expression.

The task of the Organisation then is first of all to attempt to secure labour conditions which, subject to local circumstances, climate and custom, aim at being uniform throughout the world. Only by such means can countries with enlightened labour legislation be protected from the competition of sweated labour. Conferences are held from time to time. These vote draft Conventions or Recommendations. Each State, being a member of the Organisation, is bound within one year, or in exceptional circumstances within eighteen months, to submit such draft Conventions or Recommendations to the national authority competent to ratify treaties. The Conventions already voted by the Organisation will be found in the appropriate place in the appendix. The Organisation forms also a co-ordinating body for the work of a number of International Commissions. It furnishes a panel of labour experts to the Permanent Court of International Justice. It has collected a large and valuable library of books on Labour Questions.

# CHAPTER XII

## NATIONAL SOVEREIGNTY AND THE LEAGUE OF NATIONS

FROM the days of Bodin the nature of sovereignty in the modern State has been a matter of discussion. Such discussion has generally been conducted in an atmosphere of party strife, sometimes in an atmosphere of civil war. In its most recent form it has concerned itself with the effect upon national sovereignty of certain suggested international remedies for international problems, which the late war and the recent peace have emphasised.

For some years before the war it had become apparent that Englishmen were no longer content with a definition of sovereignty which shared with various other nineteenth-century conceptions a simplicity the usefulness of which had been exhausted. The Austinian conception of sovereignty [1] was essentially a product of its generation. Its simplicity may have impoverished the political thought of contemporaries, but, to give it its due, it had enriched their political life with a working hypothesis whose value was freely tested in the process of adapting an historic constitution to the needs of the new political and industrial England, which had been created by the passing of the Reform Bill into law.

[1] Austin's *Jurisprudence*, especially lectures i and vi.

When that task had been accomplished the very simplicity of the conception was seen to have its disadvantages, and a new school arose. Every one is familiar with the famous essay of Lord Bryce,[1] in which there is clearly brought out the distinction between sovereignty *de iure* and *de facto*, between 'the person or body, to whose directions, executive or legislative, the laws attribute legal force,' and 'the person or body which can make his or its will prevail with or against the law.' The point is helpfully and rightly made but it hardly gets one further. To a student of modern politics it will appear that in modern England, and this is true to some extent of other countries, the actual sovereign is, given time, almost certain to become the legal. This it may do through a process of constitutional reform, or, failing such reform, by revolution. The development of English history is a constant illustration of this truth; and Magna Carta, the summoning of parliament, the Restoration and the Revolution settlements, the various Reform Bills, may be best described not so much as steps in a teleological development, but rather as phenomena indicating that once more political was adjusting itself to coincide with actual power.

In more recent times criticism of this and the Austinian conception of sovereignty has proceeded from a further quarter. The monumental work of Gierke, introduced to English readers by the late Professor Maitland, has not lacked popular expositors. It has been utilised in ecclesiastical polemics[2] and, in the hands of an Oxford scholar of promise, who

[1] *Studies in History and Jurisprudence*, vol. ii., Essay x.

[2] *E.g.*, Figgis, *Churches in the Modern State*.

has familiarised himself also with the views of the French 'realist,' Duguit,[1] its main contentions have gone upon a mission to the United States. As the result of a study of the actual and even recent history of the churches, trade unions and other communities, it has been suggested by this school of thinkers that corporations have a 'real' personality, and that, in the face of rights inherent in such personality, the sovereign power must act upon no more dominating theory than it would act in the face of the rights of individuals. The promoters of this theory are careful to safeguard it from an anarchic implication. They profess to enrich the State by equating with obligations to the sovereign other loyalities, but they tie them all together by differentiating between the scope of each. The activities comprised in one should not, they say, be any way identical with those demanded in any of the others. It is not, therefore, an anarchic theory, but rather constitutional in its intentions.

This conception of sovereignty, differing alike from that of Austin and that to which Lord Bryce and others of his school subscribe, has been worked out with great ability. If one can reconcile oneself to the conception of personality apart from consciousness, and can feel that the attribution of personality to a community or group is anything beyond a useful but metaphorical expression,[2] it would seem to be a conception which presents attractions. Failing that, it would appear most helpful to regard what has been written in this

[1] Mr. H. Laski, see Harvard *Law Review*, November, 1917, etc.

[2] Duguit is most careful to safeguard his theory from attributing metaphysical personality to the State. Some of the 'realist' school are less careful to avoid doing so.

connection as an attempt to express repugnance for all theories which, in defining sovereignty, over-emphasise its association with arbitrary power [1] and ignore the existence of rights which may not properly be set aside. Even as such, it has a high importance.

The truth indeed would seem to be that in defining sovereignty we should be prepared to reconsider the connection which is now usually held to exist between sovereignty and fundamental rights. In a word, that we should be prepared to find in the pre-existence of lawful rights reason for the existence of sovereignty ; [2] to postulate certain fundamental ethical rights, to define them as rights attaching to the individual, to conceive sovereignty as existing to preserve, increase and minister to these rights in a particular manner, and to regard it as a meaningless phrase if these conditions are not satisfied.[3] That there are fundamental rights of the nature described will scarcely be questioned. Outside a frankly hedonistic despotism the problem for any community will always be the enforcement and the protection of them. In this the scope and nature of authoritative sovereignty emerges. Definitions of

[1] These realist theories originated in a reaction against the 'concession' theory of corporations.

[2] The similarity between this point of view and that of not a few thinkers of the Middle Ages is obvious. It is not possible, however, within the limits of the present chapter to trace this somewhat analogous train of thought and to explain the real difference which exists between the two.

[3] Foremost in interest among such rights to-day is that of individuals to combine, both in order to protect their individual rights from molestation and to satisfy the human craving for association in the pursuit of common ends, religious, artistic or political, and in the securing of values only securable in association. There is no question here of the philosophically dubious corporate personality, yet the desired protection to corporations is afforded.

the phrase more legal in their nature have proved their inability to satisfy the very lawyers whose direct ancestors first framed them ; nor does a way out of the difficulty lie along the path of distinguishing an 'actual' from a 'legal' sovereign. He who pays court to such a method and seeks to define the 'actual sovereign' in any State will only find himself confronted in the end with the interminable and ever-shifting problem of analysing the distribution of effective power in the State or with arid speculation as to which sections of the community could, if they would, proceed to dominate the whole.

We have been speaking of internal sovereignty, but the chief concern of international lawyers is external sovereignty. Here we must relentlessly apply the same considerations, and here, too, definition is important before the pronouncement can be made that 'the external sovereignty of States is interfered with by the League of Nations.' It is necessary first in this connection to examine the nature of the League. It is necessary in the second place to inquire whether, except by giving to the word the highly legal or the highly 'actual' sense,[1] except, in other words, by adopting a point of view which has proved inadequate in talking of internal sovereignty, external sovereignty can, under present-day conditions, be declared to have any true existence : whether, in other words, in so far as authoritative sovereignty is conceived to exist in order to minister to ethical rights, it may not in external affairs find existence only through some such

[1] It is strictly improper, but pardonable as convenient, to speak of an 'actual' point of view of sovereignty, when by this is meant a view which distinguishes between a legal and an actual sovereign and lays emphasis upon the importance of the latter.

processes and machinery as will arise out of the League of Nations.[1]

It is, of course, a commonplace to assert that the framers of the League of Nations did not have it in mind to erect a super-State. In the official commentary upon the League they specifically disclaim any such intention, and it is commonly acknowledged that they have not done so. There is, however, the view, behind which is good authority, which conceives of the League's formation as a great federating act of all the nations, and which sees in the Paris Conference, which gave it birth, nothing less than a constituent assembly. Those who hold such views naturally turn to the federation of the United States to find analogies. They see a union, formed by the deliberative act of thirteen States, and the scope of the union defined—not at the first attempt, it may be noted—by a rigid constitution. The most interesting feature of the constitution is, without doubt, the Supreme Court, the first tribunal of the modern world sucessfully erected to judge in suits where sovereign States are suitors. It is a court whose composition and whose powers are carefully restricted by definition and whose early history, particularly after one test case of vital significance,[2] shows it most anxious not to claim a competency that oversteps these limits. Its striking

[1] Westlake distinguishes internal from external sovereignty, declaring that their natures are altogether different (*International Law*, vol. i. p. 21), but, as he points out, he is speaking in the one case of the Austinian conception of internal, and in the other case of an 'actual' conception of external sovereignty, and I can claim that his great authority is in no sense against the view advanced above.

[2] The decision in *Chisholm* v. *The State of Georgia* (2 Dallas, 419), given in 1793, which led to the famous XI amendment of the constitution.

political tact, displayed in these and all directions, together with the characteristically legal bent of the American public opinion, lie at the root of the triumphal progress by which these thirteen States and their successors were, by sweet reasonableness and by relentless logic,[1] induced to plead their causes at the bar. How readily it all fits in! How simple, *mutatis mutandis*, to argue by analogy, to enunciate the truism that the men of to-day are hewing an identical path through the tangle of identical difficulties.

Can we assure ourselves that this is happening? There are features which provoke a doubt. The first reason for federation in America was the necessity for a joint and a consistent foreign policy for the newly-created States while they recovered from the first shock of independence. In the primary place, also, the constitution still continues to fulfil this function of external policy. Can it be alleged that this is an aspect of primary importance in a League of Nations? In proportion as it approximates to being a League of all the Nations the external problem disappears. It is true, as has been suggested,[2] that an important function of the League is to provide a bulwark in the world for the national as against the Bolshevistic spirit. There will be work, too, to be done under the mandatory of the League in suppressing disorder in the remoter parts of Europe, Africa and Asia. But in a survey of the League's activities, while these functions are both real and important, they occupy neither an engrossing nor a primary position. They compare rather with constabulary work within a State

[1] The classical instance of this is the long-drawn-out litigation in *Rhode Island* v. *The State of Massachusetts*.

[2] Among others by Lord Eustace Percy.

than with the conduct of its foreign policy. The framers of the American Federation bethought them of the European Chancellories, which some of them had seen and all mistrusted. The framers of the League of Nations had no external bogey of that nature to disturb them. It was of the essence of their scheme that it was all-embracing.[1]

In discussing the nature of the League of Nations we are not, therefore, helped by talking either of a super-State nor yet of a federation. Professor Pollard and Sir Frederick Pollock have blazed a much more hopeful trail. They have indicated the existence of helpful analogies in the sphere of English Constitutional history, in the growth of the King's peace and in the action of the royal writs. They rightly single out the kernel of the League, the so-called 'moratorium clauses,' by the action of which the nations bind themselves not to go to war till time has been allowed for the submission of the dispute to arbitration. In the days of Henry II, the writs of entry of the King's court, devised for dealing with disputes concerning real property, did provide a method for avoiding baronial violence, of which the baronial landlords themselves appear to have grown weary. 'Amateur historians,' writes Mr. Pollard, 'may reply that it was an easy matter for the King because he had the machinery of the State behind him. But in fact there was hardly a national Government at all; there was no standing army at the Crown's disposal for the

[1] That it has not altogether been so is due to other and to transitory causes, but even under this incompleted guise the United States dreaded a unity in which its cherished policies might fail to find expression and shunned the shifting of all disputes from their respective settings to the chambers of the world in the council at Geneva.

purpose, no police, no public opinion; and the combatants were as much addicted or inured to the arbitrament of the sword as nations are to-day.'[1] The King's method erected no new political machinery and created in itself no new authority, and did not even operate apart from a conscious demand for such operation from those who quarrelled about land. The parallel with the League of Nations as regards its functions is extremely close. The prospects of the League are still uncertain. If the rights of humanity and the real values, for the expression and for the securing of which it has been formed, do come into their own through its machinery, it will remain the truth to say that, apart from a conscious recognition of such rights and a demand for the operation of such machinery, no such assertion of those rights could ever have been reached. It is mindful of this that one may assert, what is the main contention of this chapter, that in so far as the League of Nations supplies a mechanism for the preservation of these rights and values, the conception of sovereignty, with its necessary implication of moral authority, can for the first time be applied to external affairs in a more adequate sense than as a mere assertion of the unchecked power either of the States or of some central federation.

Such an assertion borders on the paradoxical. It may well be urged that the conception, which lies behind it, does not sufficiently emphasise the authority of the Nation State, and, from the point of view of practical men, can hardly result in anything but a restriction of its future scope. A philosophic theory

[1] Pollard, *The League of Nations*: An historical argument, p. 53. See also my *International Law and Autocracy*, Hodder and Stoughton, 1917.

may be written down as fantastic which minimises the importance of power which for at least three hundred years has hardly known a limit ; power which, from another point of view, has presented the appearance of a precious, if a lawless, freedom from control. No man of sense can look with unconcern on the impoverishment of the life of the State, and a theory, which declares that what has always been termed the external sovereignty of States involves an improper use of the word 'sovereignty,' may seem to lead to that result in practice and, if accepted, hold out a gloomy prospect of restricted action in the future. Need it necessarily do so ?

Metaphors are metaphors, but they may be employed to illustrate a truth. We have heard much in recent times from the psychologists as to the existence of a subconscious sphere, whence flow into the consciousness of the individual motives and promptings, which in certain circumstances dominate his action. In the light of this image and for the purposes of illustration only we may visualise the Nation State. We may compare its political life to consciousness in which at different times different values and interests have played a dominating part. There have been epochs when religion loomed so large in the consciousness of nations that every action of the State embodied—was bound to embody—the attitude of one or other of the religious parties of the day. It is hard to say, for instance, whether the Revocation of the Edict of Nantes was primarily a political or a religious act. But religious wars were possible only so long as, before the growth of indifference or tolerance, men conceived religion as an object about which it was worth while to fight, and so long as the consciousness of States embodied this idea. It has been precisely the same

story with racial promptings, from which European countries once felt so conscious a reaction, though now in many cases they are free. The most recent stage has been a period in which the consciousness of Nation States has been dominated by what may be termed imperialism, a period in which sovereignty in international affairs could never be conceived apart from a confusion of it with arbitrary power.

From the beginning of this epoch there have, however, been warnings that the subconscious sphere might yet contain surprises, and that to the conscious sphere new forces might demand admittance. In recent times the process has been much accelerated. The extension of the Government activity of States bears witness to the fact that a whole range of subjects occupies the consciousness of nations, of which there was little or no trace a hundred years ago. Individual opportunity for self-development, the product of political democracy, has in turn involved an alteration in the scale of man's exploitation of the resources of the earth. In mining and in engineering, in locomotion and in transportation, man's efforts are likely to be transferred from a hitherto Lilliputian to a Brobdingnagian scale. The resources of science may be expected to give a grasp of the principles of preventative medicine which may well make our successors impatient of the practice of hygienic measures upon any but a gigantic scale. From the developments of social science we are likely to see spring reforming measures compared with which our efforts up to date may well seem puny : and the combinations for that purpose, which efficiency will call for, may transcend the limits of any 'Sherman law' imagination. We are on the verge of developments in education

beside which German educational reforms during the century after the Napoleonic epoch were but a flash in the pan. The niggardly, the tinkering, the half-hearted attitude of mind towards these matters may become as rarely manifested as that of the professing sceptic in the Middle Ages ; and the passionate interest engendered by them may come in time to indicate an all-sufficient scope for the activities of Nation States.

There is another point. These various activities have this at least in common, that in them all to achieve the best results a state of peace is highly advantageous and in some respects essential. Without a peace, embracing all the civilised countries, the individual nations are restricted in working out their own solution to each problem and hampered in co-operation to give each other's efforts greater force. We may yet reach the stage when a war against a neighbour may appear an intolerable interruption to a war against bad housing or a plague, much as a stage was reached at which baronial wars were doomed by a transference of interest to other quarters. The very engrossing character of the many questions which, bursting all barriers, force, and will force, their way into the consciousness of the various States to-day, not only supplies material for the internal political life but will feed the hunger for a recognition of authoritative sovereignty in international affairs ; a craving for the recognition, too, of rights and values, apart from which, as is above maintained, sovereignty can have neither authority nor real meaning.[1]

[1] Since writing this I am delighted to find that the above outlined contention does not largely part company with that suggested, from a rather different point of view, in Professor Clement C. J. Webb's 2nd series of Gifford Lectures, *Divine Personality and Human Life*, lecture vi.

# APPENDIX A

## A CHRONOLOGICAL SUMMARY

### 1919

#### The League of Nations

**January 25.**—Peace Conference at Paris resolves to create a League of Nations.

**April 28.**—Draft of the Covenant of the League of Nations unanimously adopted by the Peace Conference.

**June 28.**—Treaty of Versailles (containing text of the Covenant) signed with Germany.

**September 10.**—Treaty of St. Germain-en-Laye (containing text of the Covenant) signed with Austria.

#### The International Labour Organisation

**October 29–November 29.**—First Session of the International Labour Conference at Washington.

Draft Conventions to be submitted to the League and Governments on :

(*a*) Application of principle of 8-hour day and 48-hour week.
(*b*) Question of preventing, or providing against, unemployment.
(*c*) The employment of women before and after childbirth.
(*d*) The employment of women during the night.
(*e*) The minimum age of employment of children in industry.
(*f*) The night work of young persons employed in industry.

Also six recommendations. (See *Official Journal* No. 1, page 26).

## 1920

### The League of Nations

**January 10.**—The League of Nations comes legally into existence (on the deposit of the ratifications of the Treaty of Versailles).

**January 16.**—First Session of the Council of the League (Paris).

**February 11–13.**—Second Session of the Council of the League (London), resulting in :

(1) Switzerland, whose neutralisation had rendered its position doubtful, being welcomed to the League.

(2) Appointment of the Governing Commission of the Saar.

(3) Appointment of the High Commissioner of Danzig.

(4) Appointment of Advisory Committee of Jurists to draw up draft statutes for a Permanent Court of International Justice and for other resolutions.

**February 11–13.**—Second Session of Council of the League (London). Commission appointed from members of Council to summon the States chiefly concerned to send representatives to an International Conference on the world-wide financial and exchange crisis. This reported, April 15, that it had summoned a conference.

**March 12–13.**—Third session of Council of the League (Paris). The International Labour Organisation had referred to the Supreme Council of the Allies the desirability of undertaking an enquiry into the Labour conditions in Russia. The latter body thereupon referred to the Council of the League the question of undertaking an enquiry into the larger question of the precise position in Russia of matters profoundly interesting to other nations and intimately connected with the peace of the world. A telegraphic communication was accordingly sent to the Russian Soviet Authorities asking if they were prepared to agree to such an enquiry.

The question of typhus in Poland was referred to an Inter-

national Health Conference due to meet in London at the end of April.

It was announced that by the end of the Third Session all the thirteen Powers, not original members, who had been invited to accede to the Covenant, had consented.

**March 12.**—The Supreme Council of Allied and Associated Powers invited the League to assume a mandate for Armenia.

**April 9, 10 and 11.**—Fourth Session of the Council of the League (Paris). Four reports adopted :

(1) Armenia; refusing mandate for the League, but offering to find a mandatory Power.
(2) Protection of minorities in Turkey; withholding answer till the Council of the League had seen the treaty with Turkey.
(3) Repatriation of Prisoners of War in Siberia.
(4) Report on the Danzig elections.

**April 14–16.**—Conference on International Health (London) reported that it was essential that the League of Nations should take over the organisation of relief and preventative measures in the typhus-ridden districts.

**May 14–19.**—Fifth Session of the Council of the League (Rome). Reports received on the dispute between Germany and Belgium over the future status of Eupen and Malmédy —the Council decided that for the present the League had no authority to interfere—and on fifteen other subjects mostly dealing with the mechanism of the League's organisation. (See *Official Journal* Nos. 4 and 5, p. 272).

The Council received during its sitting a reply, dated May 13, from the Soviet Authorities which amounted in effect to a refusal of the Council's request (see above, March 13). (*Official Journal* No. 4, p. 149).

**June 4.**—Treaty of the Trianon (containing text of the Covenant) signed with Hungary.

**June 10.**—The Government of Great Britain exercises its friendly right under Article 2 of the Covenant to call the attention of the Council of the League to the Suedo-Finnish dispute concerning the Aaland Island.

**June 14–16.**—Sixth Session of the Council of the League (London). Reports received on :

(1) The Bolshevik-Persian dispute over the bombardment of Enzeli, in which port General Denikin's forces had taken refuge.

(2) The further refusal of the Bolshevik Government to entertain the idea of an enquiry. 'The Council notes the refusal and leaves the entire responsibility to Russia.'

(3) Three other matters. (See *Official Report* No. 5).

### International Labour Organisation

**June 15–July 10.**—Second Meeting (Genoa). Seven draft conventions and recommendations bearing upon the conditions of Employment of Seamen.

### The League of Nations

**June 16–July 24.**—Conference at the Hague of International Jurists, who draw up a draft statute for the Permanent Court of International Justice. (See *Official Report*, p. 246).

**July 9–12.**—Seventh Session of the Council of the League (London). Aaland Islands dispute. Swedish claim for a plebiscite in the islands to determine whether the Archipelago shall remain under Finnish sovereignty, or be incorporated with the Kingdom of Sweden. Council decides to refer to a Committee of International Jurists the question as to whether the Swedish claim arises out of a matter which by International Law is solely within the jurisdiction of Finland, within the meaning of paragraph 8 of Article 15 of the Covenant. Finland and Sweden consent, etc.

**July 29–August 5.**—Eighth Session of the Council of the League (San Sebastian). Fourteen reports and resolutions were considered (see *Official Journal* No. 6). Among these the most important were :

(1) A resolution, to be conveyed to the King of the Hedjaz, that charges, brought by him as to French action in Damascus, concerned a portion of what was, until the conclusion of a peace with Turkey, enemy territory ; and that the League was unable to take cognizance of these charges.

(2) A report of the Permanent Armaments Commission on its organisation and proposed procedure. (*Official Journal* No. 6, p. 346).

(3) A recommendation referring to the Assembly the question of the nature of the steps to be taken to apply (under Article 16 of the Covenant) an international and economic blockade.

(4) An appeal to the principal Allied and Associated Powers to define the Mandates under Article 22 of the Covenant with a view to getting the Mandatory System in working order without delay.

**September 16–20.**—Ninth Session of the Council of the League (Paris). Eight reports and resolutions considered (see *Official Journal*, No. 7). Among these the most important were :

(1) Aaland Islands : as a result of the Jurists' report the Council declares itself competent to deal with this dispute. A Commission is appointed to frame a final or provisional settlement. (This was finally adopted).

(2) Boundary dispute between Poland and Lithuania arising out of the presence of Lithuanian troops to the west of the frontier provisionally assigned to Poland (the Curzon line) by the declaration of the Supreme Council of the Allied and Associated Powers of December 8, 1919. The Council proposes a reciprocal undertaking on the part of both Powers to observe this line pending the results of direct negotiations between them.

(3) Resignation of M. A. von Boch, the non-French native of the Saar member of the Governing Commission of the Saar Basin, accepted : Dr. Hector appointed.

(4) Eupen and Malmédy (see above, Fifth Session of the Council) : conditions for the public expression of

opinion provided for in Article 34 of the Treaty of Versailles held to have been carried out satisfactorily by Belgium. 271 inhabitants only out of 63,000 having registered as opposed to the cession of the district, the transfer of the districts to Belgian sovereignty was recognised.

(5) Appointment of two members of the mixed commission provided for by Article 8 of the Convention of November 27, 1919, between Greece and Bulgaria respecting reciprocal emigration : Council approves.

**September 24–October 8.**—International Financial Conference at Brussels. For report and resolutions, see *Official Journal* No. 7, pp. 414–440. An International Credit Organisation is foreshadowed.

**October 20–28.**—Tenth Session of the Council of the League (Brussels). *Official Journal* No. 8 gives an account of the President's speech, summarising events since the last session, and of the seven reports and resolutions, the most important of which deal respectively with :

(1) The composition, machinery, and procedure of the International Court of Justice.

(2) The obligations undertaken by the League in connection with the ' Minority ' clauses in Treaties of Peace.

(3) Appointment of Commission on Mandates : principles of appointment were agreed.

**November 15–December 18.**—FIRST SESSION OF THE ASSEMBLY. Six Committees :

(1) Constitutional Questions.

(2) Technical Organisations.

(3) Permanent Court of International Justice.

(4) Organisation of the Secretariat and Finances of the League.

(5) Admission of New Members.

(6) Mandates Question, Armaments and Economic Weapon.

The Assembly subjected to discussion the Secretary-General's first report on the work of the Council (see *Minutes of Proceedings*, p. 101). It admitted as new members

Albania, Austria, Bulgaria, Costa Rica, Finland, Luxemburg. Its effective work was mostly in the direction of organising the machinery of the League and in laying down principles to govern its future action. Most important were :

(1) the approval (December 13), of the Statute for the Court of International Justice. (See *Official Report*, Year II, No. 1, p. 14).

and—

(2) Suggested appointment (December 14) of a Temporary Mixed Commission (of soldiers, sailors, airmen, business men, labour leaders and politicans) on Armaments. This adopted by Twelfth Session of the Council.

**November 29.**—The League takes under its guarantee stipulations as to minorities contained in the Treaties of St. Germain-en-Laye (chapters i. and ii.) between the Allied and Associated Powers on the one hand and

(1) Czecho-Slovakia
(2) Serb-Croat-Slovene State } on the other.

**November 14–December 18.**—Eleventh Session of the Council of the League (Geneva). This, sitting simultaneously with the Assembly, takes consequential action on its resolutions :

(1) Statute for the Court of International Justice approved.

(2) Scheme for the organisation of a financial and economic advisory body approved. Word ' permanent ' deleted, on motion of Mr. Balfour, in deference to fear expressed by Canada of interference by League in internal affairs of members.

Council is faced by necessity of taking action to mediate between Armenia and Turkish Nationalists. Despite Mr. Balfour's warning, President Wilson and other Powers approached. After some correspondence nothing material is effected.

Mandates are approved for (Great Britain) South-West Africa, Samoa, Nauru, other Pacific islands South of Equator, (Japan) North Pacific islands.

In Polish-Lithuanian dispute, Vilna having been seized by General Zeligowski, whose action is disclaimed by Polish Government, international force is sent to supervise a ' popular consultation ' as to the future of the Vilna district.

**November 25–December 4.**—Third Session of Permanent Advisory Committee on Military, Naval and Air Armaments. This adopts :

Suggestions for procedure in exercising the right of investigation into the state of national armaments conferred under the Versailles Treaty (section 213), and other Treaties with the Central Powers. A questionnaire is adopted.

## 1921

### The League of Nations

**January 24–29.**—Supreme Council (Paris) first asks League to devise a plan for Austria's financial salvation.

**February 21–March 3.**—Twelfth Session of the Council of the League (Paris) :

(1) Considers appeals from East Galician Ruthenians under *de facto* sovereignty of Poland : and draws attention to these of the Allied Powers to whom East Galicia had been ceded for ultimate disposition.

(2) Postpones further action in the affairs of Armenia till further information furnished by the Allied Powers as to the position arising out of the Treaty of Sèvres.

(3) Agrees to United States' request to postpone its decisions on Mandates, classes A and B, till U.S. Government could consider the question. Notes U.S. protest against handing over of Yap to Japan under a 'C' mandate. Refers U.S. Government to the Allied Powers.

(4) Poland-Lithuania dispute. Both sides asked to agree to restrain their agents till question can be settled by a meeting of their representatives and M. Hymans at Brussels.

(5) Several Reports adopted as submitted by Provisional Economic and Financial Committee. In matter of International Credit Scheme, Sub-committee (Messieurs Avenol, Blackett and Ter Meulen) appointed to present report.

(6) Report adopted on Repatriation of nearly 300,000 prisoners of war by Dr. Nansen. The question of assuming protection of Russian Refugees raised.

**February 22.**—The nine members of the Permanent Mandates Commission appointed by the Council.

**March 3–12.**—Boundary dispute between Panama and Costa Rica comes to a head. Council appealed to, but U.S. Government intervenes and successfully mediates.

**March 8.**—Secretary-General, in accordance with resolution of the Assembly, asks all Governments whether they are prepared to limit their military, naval and air expenditure for the two following years to that estimated in the next financial year.

In due course twenty-seven replies received; fifteen favourable, seven unfavourable to proposal, five inconclusive. (See *Official Journal*, 2nd Year, No. 3, p. 256; No. 4, p. 319; Nos. 5–6, p. 445; No. 8, p. 830; No. 10, p. 1235).

**March 10–April 20.**—The Transit Conference at Barcelona, attended by 43 States, resulting in two important Conventions on Freedom of Transit and on the Régime of Navigable Waterways.

**March 17.**—Supreme Council (London) asks League to consider application to Austria of International Credit Scheme.

**May 10.**—Aaland Islands Commission send their Final Report to the Secretary-General.

**June 17–28.**—Thirteenth Session of the Council of the League (Geneva):

(1) Aaland Islands: Decision of the Council that islands should remain Finnish under special safeguard for their Swedish language, culture and traditions. [Convention finally signed October 20, 1921.]

(2) Polish-Lithuanian dispute: M. Hymans presents a scheme for solution of the question, 'aiming at establishing between the two countries very close ties while respecting fully their sovereignty.' Scheme accepted by the Council and by Lithuania, but only with reservations by Poland. Hymans continues negotiations.

(3) Albanian Question : Admission to League of Albania by the First Assembly left boundaries undetermined, Albania claiming those foreshadowed in 1913, Allied Powers contending Albania of 1913 had no existence in 1920. Albanian Government, on withdrawal of French and Italian troops faced with Jugo-Slav and Greek incursions, appeals to Council demanding boundaries of 1913. Serbs and Greeks deny competence of Council to settle boundary question, which is a matter for Council of Ambassadors of Allied and Associated Powers. Albanian representative, Fan Noli, appeals to Assembly when Council practically endorse this contention.

(4) Minorities Question : Resolutions adopted improving procedure of the Council in cases of complaints from minorities.

**June 30–July 5.**—International Conference on White Slave Traffic held under League auspices at Geneva : attended by 34 countries. An International Convention is drawn up for the suppression of the Traffic.

**July 16–19.**—First Session of Temporary Mixed Commission on Reduction of Armaments (Paris).

**August 12.**—Supreme Council of the Allies, on proposal of Mr. Lloyd George, invites Council of the League in virtue of Article 11 of the Covenant to present a recommendation as to the division of Upper Silesia between Poland and Germany, on the result of the plebiscite taken, in accordance with Articles 87–88, of the Treaty of Versailles.

**August 29.**—At a special session Council accepts invitation. Appoints Committee, which on October 12 provided solution accepted by the Allies.

**August 20–October 12.**—Fourteenth Session of the Council (Geneva). Chief question is the Polish-Lithuanian dispute over Vilna.

**September 5–October 5.**—SECOND SESSION OF THE ASSEMBLY. Six Commissions :

(1) Legal and Constitutional.

(2) Technical, Transit, Health, Economic.

(3) Armaments and Blockade.
(4) Finances of the League.
(5) Humanitarian (Typhus, Opium, etc.).
(6) Political ; Admission of States ; Albanian Question.

M. Karnebeek, Foreign Minister of Holland, elected President.

I. Secretary-General's second report on work of the Council submitted to discussion. The following points emerged :

(1) Saar Valley : Various complaints, received recently by the Council, and such action as had been taken on them reported.
(2) Typhus in Poland : reports received as to what had been done and what remained undone owing to lack of financial support (under £100,000 promised by Powers).

II. Admission as new members of the League :

(1) Refused to Montenegro ;
(2) Granted to Esthonia, Finland, Latvia, Lithuania.

III. Election of eleven Judges and four Deputy Judges of the Court of International Justice.

IV. Decision to take action neither over Article 10, abolition of which proposed by Canada, nor over Dr. Benes' proposed amendment to Article 21 to allow ' Leagues within the League ' when approved by the Assembly.

V. Mandates : Class A, consideration of these postponed till Treaty with Turkey ratified. Class B, Mandatory Powers, pending agreement with United States, asked to administer territory in the spirit of the draft Mandates.

VI. Polish-Lithuanian dispute : M. Hyman's scheme (see Thirteenth Session of Council) approved.

[This scheme was later rejected by both Poles and Lithuanians].

VII. Albanian Appeal : After prolonged debate, on the motion of Lord R. Cecil, in a speech speaking in grave terms of further delay on part of Allied Powers, it was decided :

(1) Albania should agree to accept the decision of the Conference of Ambassadors when that had been given.
(2) A 'Committee of Enquiry' should be sent to Albania

to report fully on the execution of this decision when given.

VIII. Dispute between Chile and Bolivia referred to committee of three jurists, who decided that the boundary treaty of 1904 between those countries had not become 'inapplicable' (*i.e.* obsolete), and that therefore the League could not interfere. Chile offers to negotiate direct.

IX. Resolutions tending to strengthen power and initiative of the Council in the application of the economic weapon of the League (Article 16).

X. Disarmament: Resolutions passed requesting Temporary Mixed Commission to produce Draft Treaty to be the basis of reduction of Armaments, for the following Assembly, and to continue examination of Traffic in Arms and Private Manufacture of Arms.

XI. A number of Amendments to the Covenant are passed.

**October 4–8.**—First Session Permanent Mandates Commission: Reports received from Mandatories; Questionnaire for circulation to Mandatories prepared.

**November 3.**—Conference of Ambassadors decided on frontiers of Albania.

**November 7.**—Mr. Lloyd George telegraphs to notify the League that under cover of an alleged separatist movement in Northern Albania, the Serb-Croat-Slovene forces are advancing into Albania. He suggests a meeting of the Council to agree upon measures to be taken under Article 16 of the Covenant in the event of the Serb-Croat-Slovene Government refusing, or delaying, to execute their obligations under the Covenant.

**November 16–19.**—As the result of a resolution adopted by the Council recording:

(1) Decision of Ambassadors on the frontier;

(2) Promise of evacuation by Serb-Croat-Slovene Government;

(3) Promise of both parties to live at peace;

and giving extended powers to the 'Commission of Enquiry,' evacuation of Albania by Serb-Croat-Slovenes is arranged.

**November 23.**—Conference (Geneva) between representa-

tives of Germany and Poland under neutral Chairman to settle minor questions arising out of Upper Silesian question. Final agreement reached March, 1922.

**November–February, 1922.**—Washington Conference on Naval Disarmament.

### International Labour Organisation

**October 25–November 19.**—Third Conference (Geneva). Draft Conventions to be recommended :

(1) To secure agricultural workers the same right of association and combination as are possessed by other workers.

(2) To extend the Workmen's Compensation Laws to agricultural workers.

(3) To prohibit the employment of children under fourteen in agricultural work during school hours and at all other times if the work would prejudice their school attendance.

(4) To secure a rest period of twenty-four consecutive hours for all workers in industry, subject to certain exceptions.

(5) To fix minimum age for the admission of young persons to employment as trimmers and stokers : and to render compulsory medical examination of children and young persons before their employment at sea.

(6) Concerning the use of white lead in painting.

Eight recommendations were adopted.

## 1922

### The League of Nations

**January 10–14.**—Sixteenth Session of the Council of the League (Geneva). Thirteen meetings :

(1) Council notes breakdown of conciliation in Polish-Lithuanian dispute : withdraws Military Commission

(see eleventh session) : Enjoins abstention from hostilities and further negotiation.

(2) Approached by Government of Finland with complaint as to Russian refusal to carry out its obligations towards the Eastern Carelians, Council declares itself ready to negotiate if both Russians and Finns agreeable.

(3) France submits question for decision by Court of International Justice as to whether the International Labour Organisation is competent to deal with Agricultural Labour : and if the answer be in the affirmative to what extent does the power extend.

**January 26–February 23.**—Complaints to Council from the Lithuanian and Polish Governments of the ill-treatment of their nationals, each by the other, renders solution of their main dispute more difficult.

**February 20.**—Temporary Mixed Commission considers Lord Esher's draft plan for reduction of land armies.

**March 20–28.**—Health Conference conducted by League Health Organisation at request of Polish Government at Warsaw.

**March 24–28.**—The Seventeenth Session of the Council of the League (Paris). Six meetings :

(1) An Advisory Council and Technical Committee are established in the Saar Basin.

(2) Seven new members—among them Lord R. Cecil—appointed to strengthen the Temporary Commission on Armaments.

**March 28.**—Diplomatic relations re-established between Albania and the Serb-Croat-Slovene State.

### Court of International Justice

**February 15.**—FORMAL OPENING OF THE COURT.

**March.**—Rules of the Court completed and published.

### The League of Nations

**April 10–May 24.**—International Economic Conference at Genoa.

**May 11–17.**—Eighteenth Session of the Council of the League (Geneva). Twelve meetings :

(1) French Question (see Sixteenth Meeting) is subjected direct to the Court.

(2) Report received on Austrian finance.

(3) Albania : Council decides to keep one member of Commission of Enquiry on the spot ; stresses importance of settlement of such boundary questions as remain undetermined ; undertakes to recommend a financial advisor for Albania.

(4) Conditions settled for admission of States not members, nor mentioned in the Annex to Covenant, to the Permanent Court.

**July 3.**—Temporary Mixed Commission on the Reduction of Armaments meets at Paris. Lord Robert Cecil produces a draft treaty of Mutual Guarantee.

**July 17–24.**—Nineteenth Session of the Council of the League (London). Thirteen meetings :

(1) Mandates of Class A (Palestine, Syria), and of class B (Cameroons, East Africa, Togoland), approved ; in the case of the former, subject to the settlement of outstanding questions between the Italian and French Governments.

(2) Temporary Mixed Commission on Armaments' Report speaks of Lord R. Cecil having submitted a proposal defining the principles which might serve as a base for a scheme of a general reduction of Armaments.

### Court of International Justice

**July 31.**—The Court gives its first advisory opinion on the question of the nomination by the Netherlands Government of the Workers delegate from Holland at the third session of the International Labour Conference.

**August 12.**—The Court gives its second and third advisory opinions on the competence of the International Labour Organisation in questions of agriculture, *e.g.* :

(1) Employment of persons therein, answered in the affirmative.

(2) Proposals for the organisation and development of the method of agricultural production, answered in the negative.

### The League of Nations

**August 1–11.**—Second Session of Permanent Mandates Commission : reports from mandated countries examined. (*Official Journal* III, p. 1263).

**August 14.**—Supreme Council again approach League with reference to finding remedies for Austria's financial difficulties.

**August 31,** resumed **October 4.**—Twentieth Session of the Council of the League (Geneva). Lord Balfour lays forward proposals for a Holy Places Commission under the Palestinian Mandate.

**August 31–October 4.**—Twenty-first Session of the Council of the League (Geneva). Certain decisions of the Court of International Justice reported. Nineteen meetings :

(1) India to be included among the eight States of chief industrial importance in the International Labour Organisation.

(2) Reports considered of Permanent Mandates Commission.

(3) Dispute between Great Britain and France as to the nationality decrees issued in Tunis and Morocco (French zone), and their applicability to British subjects, referred to Court of International Justice for decision as to whether it be solely a matter of domestic jurisdiction.

(4) Agreement reached on Austro-Hungarian Boundary question referred to Council by Delimitation Commission appointed by Supreme Council : failure to reach agreement in boundary dispute between Hungary and Serb-Croat-Slovene State.

(5) Measures regulating and improving the position of Danzig.

(6) Reference of certain German minority questions in Poland to Committee of Jurists.

**September 4–30.**—THIRD SESSION OF THE ASSEMBLY. Six Commissions :

(1) Constitutional and Judicial.
(2) Technical.
(3) Reduction of Armaments.
(4) Finances of the League.
(5) Social and General.
(6) Political.

Senor Don Agustin Edwards, Chile, elected President.

I. Secretary-General's third report on the work of the Council submitted for discussion. The following points emerge:

(*a*) Apprehension with regard to conditions in the Saar Basin : Lord Balfour replies.

(*b*) Apprehension aroused by reports as to the suppression of the Hottentot rebellion in the mandated territory of South-West Africa : Sir Edgar Walton replies.

II. Hungary is admitted to the League.

III. Armaments : as result of discussions in the third commission in which Lord R. Cecil and M. de Jouvenel take part, a report is presented and adopted

(*a*) asserting interdependability of schemes for disarmament and guarantees for security.

(*b*) encouraging Temporary Mixed Commission to prepare a draft treaty aimed at securing these.

IV. Austrian financial situation : after much debate Italian opposition is overcome and a scheme to put Austria on her feet is adopted. It is based on a guaranteed loan, control of certain Austrian assets by League Commissioner, and Austrian governmental reforms.

V. Five resolutions on the Minorities Question adopted. These suggest general lines of procedure, but do not attempt to draw up general or final settlement pending the accumulation of further administrative experience which Minorities Section of the League is gradually accumulating. (See above Tenth and Thirteenth Sessions of the Council).

VI. Mandates : Searching enquiry enjoined upon Permanent Mandates Commission into events in South-West Africa

and Nauru. Procedure in case of a petition against Mandatories defined.

VII. Relief of Greek refugees (Smyrna area) undertaken so far as funds will permit. Great Britain offers £50,000, but not much further response.

VIII. Discussion of:

(*a*) Slavery question in Africa.

(*b*) Revision of Articles 10 and 18 (Registration of Treaties) of the Covenant postponed to next meeting of the Assembly.

IX. Council increased by addition of two non-permanent members: but question of tenure of non-permanent members postponed.

X. Apportionment of contribution of members to expenses of the League to be on a new fixed scale instead of on scale of the Universal Postal Union.

XI. Recommendations to members of the League to conclude conventions with the object of laying their disputes before Conciliation Commissions formed by themselves.

**August 31–October 4.**—Twenty-second Session of the Council (Geneva). Eight meetings devoted to the restoration of Austria. Loan guaranteed by Great Britain, France, Italy, and Czecho-Slovakia.

**October 11.**—Treaty signed at Bagdad between Great Britain and Irak, being in effect a modified form of mandate.

**December 2–16.**—Moscow Disarmament Conference at which Russia, Poland, and the Baltic States are present.

### International Labour Organisation

**October 18–November 3.**—Fourth Conference (Geneva). Emigration and Unemployment under discussion.

## 1923

### The League of Nations

**January 25.**—Irak: Lord Curzon, under Article 11 of the Covenant, requests the Secretary-General to bring before the Council the case of the disputed frontier between Irak and Turkish dominions in Asia Minor.

**January 29–February 3.**—Twenty-third Session of the Council of the League (Paris). Fourteen meetings :

(1) Irak Boundary Question postponed.

(2) Hungary and Czecho-Slovakia agree to accept Council's decision on boundaries.

(3) Certain questions of German minorities in Poland referred to the Permanent Court for advisory opinions.

### Court of International Justice

**February 7.**—Decision in the dispute between Great Britain and France as to whether the Nationality decrees issued in Tunis and Morocco (French zone) on November 8, 1921, raised an issue which is purely a matter of domestic jurisdiction, or is not.

Answered that it is not an issue purely within domestic jurisdiction.

(Referred by the Council at its Twenty-second Session).

The question was subsequently settled by direct agreement between the British and French Governments.

### The League of Nations

**February 9–12.**—Sixth Session of Temporary Mixed Commission on Armaments. Draft Treaty of Mutual Guarantee referred for opinion to the various Governments and to the Permanent Commission of Experts on Armaments.

**February–May.**—Disorder in the Saar basin : General Strike of Miners : Governing Commission issues emergency decrees.—*March* 7. Maintenance of order : heavy penalties not merely for writing, but for speaking, against Commission or League.—*May* 2. Prohibition of peaceful picketing.

**March 15.**—Conference of Ambassadors issues decision upon boundaries of Poland, awarding Vilna to Poland and acknowledging the eastern boundaries according to the Riga Treaty of 1921. Lithuania objects.

**April 17–23.**—Twenty-fourth Session of the Council (Geneva). Fourteen meetings :

(1) Saar situation discussed.

(2) Finnish Government protests at failure of Russian Soviet Government to carry out their undertaking of October 14, 1920, to give larger liberty to inhabitants of Eastern Carelia. At its request the Council refers to the Court of International Justice the question as to whether the articles of the treaty in question constitute engagements of an international character.

(3) Nationality of peoples under Mandates.

**July 2–7.**—Twenty-fifth Session of the Council of the League (Geneva). Thirteen meetings :

(1) On proposal of British Government a general enquiry was held into the administration of the Saar Basin.

(2) Plan for settling nearly a million Greek refugees in productive work started.

(3) League Health Organisation placed on a permanent basis.

**July 20–August 10.**—Third Session of the Permanent Mandates Commission.

**July 24.**—Treaty of Lausanne signed.

**August 18.**—Supreme Council, through Ambassadors Conference, ask Council to give a decision as to whether the boundary between Poland and Czecho-Slovakia was or was not determined by decision of September 27, 1919. Council at Twenty-sixth Session refers question to Court of International Justice.

### Court of International Justice

**July 23.**—Advisory opinion that the engagements in Treaty of Dorpat between Russia and Finland and their position in International Law involve a question which, till the Russian Government be a consenting litigant, is outside the competence of the Court.

**August 17.**—Judgment in the case of S.S. *Wimbledon*, in favour of Allied Governments and Poland, that Germany was wrong in refusing access to the Kiel Canal to this ship proceeding to Danzig with a cargo of 4,000 tons of military material. Germany condemned in damages.

### The League of Nations

**August 27.**—Murder of Italian General Tellini, engaged under authority of Conference of Ambassadors, in delimitation of Græco-Albanian boundary.

**August 29.**—Mussolini's ultimatum to Greece demanding atonement by various acts, together with indemnity of 50,000,000 lire. Greece demurs to accepting terms as offered while accepting responsibility.

**August 31.**—Ambassadors' Conference addresses vigorous note to Greece insisting on enquiry and on admission of responsibility.

**August 31.**—Italian fleet off Corfu : Greek prefect resisting occupation of island 'as a pledge,' island is shelled. Fifteen killed, more wounded.

**August 31–September 29.**—Twenty-sixth Meeting of the Council of the League (Geneva). This arranged long before incident occurred. It receives Greek appeal, drafted before Corfu incident but in anticipation of Italian refusal of Greek terms.

**September 6.**—Council, agreeing that Ambassadors were still seized of dispute, sends to Paris, at Lord Robert Cecil's suggestion, draft of a possible settlement :

(*a*) Inquiry into Tellini murder should be supervised by an Allied Commission.

(*b*) Indemnity to be ultimately paid by Greece should be determined by International Court of Justice, the full sum being meanwhile deposited by Greece as security in a Swiss Bank.

**September 7.**—This adopted by Conference of Ambassadors and accepted by both countries.

### Court of International Justice

**September 10.**—Advisory opinion given on certain questions relating to settlers of German origin in the territory ceded by Germany to Poland. (Submitted by the Council, Twenty-third Session).

**September 15.**—Advisory opinion given by the Court on the question of the Acquisition of Polish Nationality. (Submitted by the Council, Twenty-fifth Session).

### The League of Nations

**September 13.**—Conference adds that if Greece were found guilty of any lack of diligence in pursuing the inquiry into the murder, the whole 50,000,000 lire might be handed to Italy.

**September 25.**—The Allied Inquiry presents its report to the Conference of Ambassadors.

**September 26.**—The Conference of Ambassadors awards 50,000,000 lire to Italy.

**September 27.**—Italy evacuates Corfu.

**September 28.**—Council decides, in dealing with Italy's challenge to the authority of the League, after long discussion, to lay five points before a commission of jurists, not the Court of International Justice, all dealing with the competence of the League. Council agrees unanimously :

(1) That any dispute between members of the League likely to lead to a rupture is within the sphere of action of the League.

(2) That if such dispute cannot be settled by diplomacy, arbitration or judical settlement, it is the duty of the Council to deal with it in accordance with Article 15 of the Covenant.

**September 3–29.**—FOURTH ASSEMBLY OF THE LEAGUE. Six Commissions :

(1) Legal and Constitutional.
(2) Technical Organisations.
(3) Armaments.
(4) Finances of the League.
(5) Social and Humanitarian.
(6) Political.

Senor Torriente, former foreign minister of Cuba, elected President.

Discussion of Secretary-General's report on the work of the

Council postponed owing to outbreak of the Italo-Greek crisis. It started September 12.

I. Abyssinia and Irish Free State admitted to the League.

II. Armaments :

(*a*) Mutual Guarantee Treaty of the Temporary Mixed Commission on Armaments approved and referred to Governments. In discussion majorities carried :

(1) Permission for subsidiary treaties ;

(2) Participation in treaty by non-members of the League if approved by two-thirds majority of members.

Holland definitely refuses to adhere : France's representatives foreshadow limitations.

(*b*) Preparation enjoined of a new Convention on traffic in arms to take the place of the St. Germain Convention of 1919 which the United States would not approve.

(*c*) Prolongation of life of the Temporary mixed Commission whose disbandment Colonel Requin suggested.

III. Article 10 of the Covenant : Interpretive resolution acceptable to Canada carried by 29 votes to 1 (that of Persia which had not paid subscription to the League).

IV. Non-permanent members of the Council : Re-elected, Belgium, Spain, Brazil, Uruguay and Sweden : China replaced by Czecho-Slovakia.

V. Mandates : Work of Permanent Mandates Commission approved, but regret expressed that it had not been able to report that satisfactory conditions had been re-established in Bondelzwart district of Mandated South-West Africa.

VI. Conferences arranged for discussion : (1) customs reforms, (2) transit improvements, (3) opium and drugs, manufacture and import ; Inquiry arranged into real extent and nature of traffic in women and children.

VII. Arrangements for co-operation with International Health Office in Paris. (Amalgamation would have taken place but for the objection of U.S.A.).

VIII. Approval by Assembly of action taken by the Council in Italo-Greek controversy.

**September 25.**—Conference of Ambassadors calls the attention of the Council under Article 11 to their inability to reach an agreement with the Lithuanian Government over the conditions of the transference to Lithuania of the Memel district.

**October 15–November 3.**—International Conference on Customs formalities (Geneva).

### International Labour Organisation

**October 22–29.**—Fifth Conference (Geneva). Recommendations passed to improve systems of inspection.

### The League of Nations

**November 15–December 8.**—Second General Conference on Communications and Transport (Geneva).

### Court of International Justice

**December 6.**—Advisory opinion delivered by the Court on the Polish Czecho-Slovakian boundary case (Jaworzina) referred to it by Council at its Twenty-sixth Session, to the effect that the delimitation of the frontier had been settled by the decision of the Conference of Ambassadors on July 28, 1920, but that this decision must be applied in its entirety.

### The League of Nations

**December 10–20.**—Twenty-seventh Session of the Council of the League (Paris). Twelve meetings :

(1) Mandates ; reports of third session of Mandates commission considered.

(2) Protocols approved of a scheme for the financial reconstruction of Hungary (on the lines of the Austrian plan).

(3) Memel Question referred to a Commission of three members for report.

(4) Poland-Czecho-Slovakia boundary dispute : recommendations, based on decision of the Court of Inter-

national Justice, to be forwarded to the Conference of Ambassadors. [These adopt the recommendations, March 26, 1924).

**December 13.**—The Council of Ambassadors forwards to the Council of the League the final Report of the Inter-Allied Commission on the Graeco-Italian quarrel.

## 1924

### The League of Nations

**January 18.**—Meeting of Special Commission of Jurists. See Twenty-sixth Session of the Council).

**February 9.**—Members of the Memel Commission appointed, with Mr. N. H. Davis as Chairman.

**February 15–25.**—Meeting of Naval Sub-Committee of Permanent Advisory Committee on Armaments (Rome). Proposals drafted extending the terms of the Washington agreement on naval armaments to non-signatory Powers. These were circulated to all Governments by resolution of the Council (Twenty-eighth Session).

**March 10–15.**—Twenty-eighth Session of the Council of the League (Geneva). Eleven meetings :

(1) Report of Special Commission of Jurists on the question of the League's competence etc : this unanimously adopted. (See *Official Journal*, fifth year, No 4, Ap. 1924).

(2) Report of Committee on Memel adopted and circulated to all parties interested.

**April 22.**—Cancellation of the contract between the Albanian Government and the financial adviser Dr. Hunger (appointed on the recommendation of the League).

### International Labour Organisation

**June 16–July 5.**—Sixth Conference (Geneva). Draft Conventions on equality of treatment of national and foreign workers regarding compensation for accidents, and on night work in bakeries, and 24 hours rest for workers in glass factories. Recommendation on use of workers' spare time.

### The League of Nations

**June 11–17.**—Twenty-ninth Session of the Council of the League (Geneva). Seven meetings :

(1) Reports on Austrian and Hungarian financial reconstruction.

(2) Collective responsibility of Saar Commissioners established.

(3) Resolution passed requesting nations not to exceed their current military, naval, and air budgets pending the adoption of a general scheme for reduction of armaments. Italy and Great Britain make reservations.

(4) British treaty with Irak submitted to Council. Consideration postponed to next session.

### Court of International Justice

**August 30.**—Court gives judgment in the case of M. Mavrommatis and his claim against the British Government regarding concessions in Palestine. As regards the works at Jaffa his claim is dismissed. But in respect of works at Jerusalem the Court reserves judgment of this part of the suit on its merits.

**September 4.**—Court gives advisory opinion in regard to the Serbo-Albanian frontier at the Monastery of Saint Naoum, that the Allied Powers by the decision of the Ambassadors' Conference December 6, 1923, had exhausted, as far as this frontier is concerned, the mission recognised as belonging to them by the League Assembly October 2, 1921.

**September 12.**—The Court gives judgment in the matter of Treaty of Neuilly, Article 179, Annex, Paragraph 4 (interpretation).

### The League of Nations

**August 29–October 2.**—Thirtieth Session of Council (Geneva). Among the questions dealt with were the frontiers between Turkey and Irak and the question of League supervision of the armaments of ex-enemy States. A new Co-ordination Commission on Disarmament is founded.

**September 1–October 2.**—FIFTH SESSION OF THE ASSEMBLY. Six commissions :

(1) Constitutional and legal.
(2) Technical.
(3) Reduction of Armaments.
(4) Financial Questions.
(5) Social and General.
(6) Political.

Monsieur Guiseppe Motta (Switzerland) elected President.

I. Secretary-General's fifth report discussed.

II. Dominican Republic admitted to the League.

III. Council to call committee of experts to consider the position of, and needs of development in, the Law of Nations.

IV. In view of the favourable development of the situation a loan of ten million pounds approved for settlement of Greek refugees.

V. Approval of offer of French Government to found an International Institute in Paris and of Italian Government to found an Institute in Rome for the unification, assimilation or co-ordination of private law.

VI. In view of considerable dissatisfaction on part of Governments with the Treaty of Mutual Guarantee a further, more comprehensive plan was devised, the Protocol for pacific settlement of international disputes based on the three principles of Security, Arbitration and Disarmament.

VII. Resolutions preparing the way for an International Conference on disarmament, trade in arms, private manufacture of arms.

VIII. Adoption of budget. Provisional scheme for allocation of expenses. Costa Rica, Honduras, Nicaragua, Peru, Bolivia, Liberia, Persia, reported as in arrears with payment.

IX. Question of Georgia referred to the Council.

X. Temporary Mixed Commission to be remodelled.

**October 23–November 6.**—Fifth Session of Permanent Mandates Commission (Geneva).

**October 27–31.**—Thirty-first Session of Council (Brussels). Arrangement made with Turkey as to the precise *status quo* in Irak.

**November 3–February 10, 1925.**—First Opium Conference (Geneva), attended by States with Colonies in the East, where opium is smoked. A Convention was signed on February 10, 1925, by seven nations, excluding China.

**November 17–February 19, 1925.**—Second Opium Conference, resulting in Convention and Protocol making for far stricter control of traffic in drugs by means of a Central Board at Geneva. For the time being America and China refuse to co-operate.

**December 8–13.**—Thirty-second Session of Council (Rome). Relations between Poland and Danzig reviewed ; also administration of the Saar territory. Report of the fifth Session of Mandates Commission adopted. A number of decisions taken regarding the control of armaments in Germany, Austria, Hungary and Bulgaria. Owing to British Government's need to consult other members of British Commonwealth preparations for disarmament and consideration of Protocol postponed.

## 1925

### Court of International Justice

**February 21.**—Court gives advisory opinion on the meaning of the word ' established,' regarding the exchange of Greek and Turkish populations (Lausanne Convention VI, January 30, 1923, Article 2).

### The League of Nations

**March 9–15.**—Thirty-third Session of the Council (Geneva). The central issue was the immediate future of the Protocol. Mainly as the result of the inability of the British Government (represented by Mr. Austen Chamberlain) to adopt the Protocol as it stands, it is decided in a resolution put forward by Dr. Benes to place the Protocol definitely on the agenda of the Sixth Assembly. The Council decides to refer the dispute between Greece and Turkey over the Patriarchate to the Permanent Court. The position in the Saar and at Danzig carefully considered.

# APPENDIX B

## BIBLIOGRAPHY OF OFFICIAL PUBLICATIONS AND OF SOME USEFUL BOOKS ON THE LEAGUE

### LEAGUE OF NATIONS OFFICIAL PERIODICAL PUBLICATIONS[1]

#### I.—Central Executive Organisation (League of Nations)

Records of the Plenary Meetings of the Assembly. Published yearly (English and French Texts). Price varies, approximately 30*s.* to 35*s.* per volume.

Records of the Meetings of the Assembly Committees. Published yearly in 2 vols. (English and French Texts). Price varies, approximately 15*s.* to 20*s.* per volume.

Minutes of the Sessions of the Council (English and French Texts). No definite date of publication. Price per volume varies from 3*s.* to 30*s.*

Monthly Bulletin of Statistics (English and French Texts). Annual subscription (post free), 18*s.* net. Single numbers, 1*s.* 6*d.* net.

Epidemiological Intelligence. Published approximately every month. Price per copy varies from 1*s.* to 1*s.* 6*d.*

The Monthly Summary of the League of Nations. Published in separate editions in English, French, German,

[1] These publications can now be obtained from Messrs. Constable & Co. Ltd., 10 and 12 Orange Street, London, W.C. 2. They can also be seen on application at 15 Grosvenor Crescent, S.W. 1.

Italian, Japanese and Spanish. Annual subscription (post free), 6*s.* net. Single numbers, 6*d.* net. All supplements free to subscribers.

Official Journal. Published in separate editions in English and French. Contains the complete minutes of the session of the Council of the League of Nations, the text of the Reports and Resolutions adopted by the Council, as well as the principal official documents received or despatched by the Secretariat of the League. Annual subscription (post free), 60*s.* net. All subscriptions must date from January to December.

Special Supplements of the Official Journal are issued from time to time, at prices varying from 1*s.* 3*d.* to 9*s.*

Quarterly Bulletin of Information on the Work of the International Organisations. Compiled by the International Bureaux Section of the Secretariat. Annual subscription, 5*s.* Single numbers, 1*s.* 3*d.*
No record of international Labour Bodies is included in this Bulletin, as these are dealt with in the publications issued by the International Labour Organisation.

Treaty Series. Volumes published at irregular intervals, 2*s.* 6*d.* for a single number and 12*s.* for four bound together, containing International Engagements registered by the Secretariat of the League.

## II.—International Labour Organisation

International Review (English and French Texts). Published monthly. Annual subscription, £1 4*s.* post free.

Official Bulletin. Published weekly in English, French and German. Annual subscription, £1 post free.

Industrial and Labour Information. Weekly. Annual subscription (including Russian Supplement), £1 post free.

International Labour Directory. Published annually at 11*s.* 6*d.* post free.

Legislative Series. Annual subscription, £1 post free.

Documents of International Labour Conference. (English and French Texts). Annual subscription, £2 post free.

STUDIES AND REPORTS. Annual Subscription, £1 5*s.* post free. These include special reports on such subjects as Labour Conditions in Soviet Russia, International Seamen's Code, the Mining Industry in the Ruhr, Factory Inspection, etc. An extensive list of special articles is published in the following series: *A*, Industrial Relations; *B*, Economic Conditions; *C*, Employment and Unemployment; *D*, Wages and Hours; *E*, Workmen's Compensation, Rehabilitation and Social Insurance; *F*, Industrial Hygiene, Accidents and Safety; *G*, Welfare of Workers; *H*, Co-operation; *I*, Protection of Women and Children; *J*, Education; *K*, Agriculture; *L*, Maritime Affairs; *N*, Statistics.

A complete catalogue of these publications can be obtained free on application to the International Labour Office, London Branch, 26, Buckingham Gate, London, S.W.1.

*Note.*—The subscriptions to all the periodical publications of the International Labour Office amount together to a total sum of £9 0*s.* 6*d.*, which will be reduced to £8 per annum for an inclusive subscription covering all publications issued by the Office in the course of the year, with the exception of the Special Reports.

A special subscription of £1 15*s.* covers the INTERNATIONAL LABOUR REVIEW, INDUSTRIAL AND LABOUR INFORMATION, and the RUSSIAN SUPPLEMENT.

## PUBLICATIONS OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

### THE HAGUE

(These publications may be obtained through all booksellers, or direct from the publisher, Messrs. A. W. Sijthoff's Publishing Company, Leyden, Holland.)

(All prices are given in Dutch florins).

*Series A.*—Collection of Judgments: No. 1, Affair of the S. S. *Wimbledon*; paper cover, Fl.2. No. 2, The Mavrommatis Palestine Concessions. No. 3, Treaty of Neuilly,

Article 179, Annex, Paragraph 4. (Interpretation). *Series B.* —Collection of Advisory Opinions : No. 1, Advisory Opinion relating to the designation of the Dutch Workers' Delegate to the Third session of the International Labour Conference, given on July 31, 1922 ; paper cover, Fl. 0.60 ; Nos. 2 and 3, Advisory Opinions as to the competence of the International Labour Office in regard to international regulations of the conditions of labour of persons employed in agriculture. and in regard to the examination of proposals for the organisation and development of the methods of agricultural production and other questions of like character, given on August 12, 1922 ; paper cover, Fl. 1.20 ; No. 4, Advisory Opinion with regard to the Nationality Decrees issued in Tunis and Morocco (French zone) on November 8, 1921, given on February 7, 1923 ; paper cover, Fl. 1.20 ; No. 5, Advisory Opinion as to the status of Eastern Carelia, given on July 23, 1923 ; paper cover, Fl. 1.20. No. 6, Advisory Opinion as to the status of certain German settlers in Poland, given on September 10, 1923 ; No. 7, Advisory Opinion on the acquisition of Polish Nationality, given on September 15, 1923 ; No. 8, Advisory Opinion on the question of Jaworzina (Polish-Czecho-Slovakian frontier), given on December 6, 1923 ; No. 9, Advisory Opinion on the question of the Monastery of Saint-Naoum (Albanian frontier), given on September 4, 1924. *Series C.*—Acts and Documents relating to Judgments and Advisory Opinions given by the Court : No. 1, First Ordinary session, Documents relating to Advisory Opinions Nos. 1, 2 and 3, paper cover, Fl. 17.50, bound, Fl. 20 ; No. 2, Second (extraordinary) session, paper cover, Fl. 9.50, bound, Fl. 12. No. 2, Additional Volume, Nationality Decrees in Tunis and Morocco ; No. 3, Third session, Three volumes, Acts and Documents relating to Advisory Opinions Nos. 5, 6 and 7 ; No. 4, Fourth session, Acts and Documents relating to Advisory Opinion No. 8 ; No. 5, I, Fifth session, Documents relating to Judgment No. 2, The Mavrommatis Palestine Concessions ; No. 5, II, Documents relating to Advisory Opinion No. 9. *Series D.* —Acts and Documents relating to the organisation of the Court: No. 1, Statute and Rules of the Permanent Court of Interna-

tional Justice, paper cover, Fl. 3, bound, Fl. 3.90 (Published by the International Intermediary Institute); No. 2, Preparation of the Rules of Court: Minutes, with annexes, of the meetings of the Preliminary session of the Court, paper cover, Fl. 20, bound, Fl. 22.50; No. 3, Collection of texts governing the competence of the Court, paper cover, Fl. 2.50, bound, Fl. 3.75; No. 4, Extracts from International Agreements affecting the Jurisdiction of the Court.

## DOCUMENTS ISSUED BY THE LEAGUE OF NATIONS IN CONNECTION WITH THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

| | £ | s. | d. |
|---|---|---|---|
| Vol. I. Advisory Committee of Jurists. Documents presented to the committee relating to existing plans for the establishment of a Permanent Court of International Justice (English and French Texts) . . . | 3 | 5 | 0 |
| Vol. II. Advisory Committee of Jurists. Procès-verbaux of the proceedings of the Committee, June 16–July 24, 1920, with annexes (English and French Texts) . . . . | 3 | 10 | 0 |
| Vol. III. Documents Concerning the Action taken by the Council of the League of Nations under Article 14 of the Covenant, and the adoption by the Assembly of the Statute of the Court (not including material collected for, or the minutes of, the Advisory Committee of Jurists) (English and French Texts) . . . . . | 3 | 5 | 0 |
| Price of the set . . . . . | 10 | 0 | 0 |
| The Permanent Court of International Justice: Descriptive Booklet . . . . . | | | 9 |

[These publications may be obtained from the Publication Department, League of Nations, Geneva, or from Messrs. Constable & Co. Ltd., 10 and 12, Orange Street, W.C. 2.]

## SOME PUBLICATIONS OF THE LEAGUE OF NATIONS UNION

No. 34. The Covenant Explained, with Introduction by Professor Gilbert Murray, 6*d.*

No. 118. The Blue-eyed Infant—current misconception about the League, 1*d.*

No. 72. League of Nations and the Schools, by Dr. Maxwell Garnett, 3*d.*

No. 74. The First Fruits of the League, 1*d.*

No. 114. Teachers and the World Peace, 3*d.*

No. 105. The World 'Dope' Menace and the League of Nations, by Basil Mathews, 3*d.*

No. 116. The Ruhr and the Way Out, by Dr. Maxwell Garnett, 3*d.*

No. 132. Geneva, 1923, by H. Wilson Harris, 1*s.*

No. 136. Austria, 2*d.*

No. 140. Speech on Reparations, by Prof. G. Murray, 1*d.*

No. 82A. Humanitarian Activities of the League, 6*d.*

No. 83. Political Activities of the League, 9*d.*

No. 144. The Technique of the League of Nations, by Roth Williams, 3*d.*

No. 148. British Business and the League, 3*d.*

No. 150. Draft Treaty of Mutual Assistance, with explanatory note by Rt. Hon. Viscount Cecil of Chelwood, and amendments by the Executive Committee of the L.N.U., 3*d.*

No. 153. Four Years of Work of the International Labour Organisation, 3*d.*

No. 155. Human Welfare and the League, 2*d.*

No. 161. The League of Nations. What it is and what it does, 2*d.*

No. 164. Geneva, 1924, by H. Wilson Harris, 9*d.*

No. 166. Complete Text of Covenant and the Geneva Protocol, with explanatory introduction, 4*d.*

No. 167. The Covenant and the Protocol, by Sir Frederick Pollock, 6*d.*

No. 170. Lord Grey of Falloden on the Geneva Protocol, 2*d.*

No. 168. The Origin and Functions of the League, by J. R. M. Butler, 2*d.*

No. 171. Chemical Warfare, 3*d.*

No. 172. The 'Labour Covenant' Explained, 1*d.*

and

No. 75. Reconstruction since the War; a Survey of Four Years' Work by the League of Nations, 1920–23, by Maurice Fanshawe, 2*s.* 6*d.*

Books not Published by the League of Nations Union

(*But obtainable from the Union's Offices, 15 Grosvenor Crescent, S.W. 1*)

The League of Nations To-Day, by Roth Williams (Allen & Unwin), 6*s.*

Key-book to the League of Nations, by C. B. Fry (Hodder & Stoughton), 7*s.* 6*d.*

Towards International Justice, by F. N. Keen (Allen & Unwin), 7*s.* 6*d.*

Moral Basis of the League, by Lord Cecil, 1*s.*

The Revival of Europe, by H. G. Alexander (Allen & Unwin), 3*s* 6*d.*

A Selection of Books upon the League

*British*

The League of Nations, 1922, by Sir Frederick Pollock.

The League of Nations: A Practical Suggestion, by Rt. Hon. J. C. Smuts (Hodder & Stoughton, 1918).

The Second Year of the League, by H. W. V. Temperley. 1922.

Reconstruction, by M. Fanshawe. League of Nations Union.

The Geneva Protocol for the Pacific Settlement of International Disputes, by Prof. P. J. N. Baker (P. S. King & Son, 1925).

The League, the Protocol and the Empire, by Roth Williams (Allen & Unwin. 1925).

The League of Nations in Relation to the Reduction of Armaments : Report of a Committee to the Cambridge Union Society, 1924.

House of Lords Debates, Vol. 58, No. 64 (Thursday, July 24, 1924).

The League of Nations Starts : An outline by its organisers (Macmillan & Co., 1920).

Problems of International Settlement : Introduction by Lowes Dickinson (Allen & Unwin, 1918).

The Common Weal, by Rt. Hon. H. Fisher (Oxford University Press, 1924).

### *United States*

League or War, by Irving Fisher (Harper Bros., New York), 1923.

Year Books of the League of Nations, by C. Levermore.

President Wilson's Case for the League of Nations, by Hamilton Foley (Oxford University Press, 1923).

The League of Nations at Work, by Arthur Sweetser (Macmillan, 1920).

### *French*

L'Oeuvre de la Société des Nations (1920–1923), by Léon Bourgeois. [Speeches by the author]. Payot.

'Vers la Société des Nations,' Leçons professées au Collège libre des sciences sociales pendant L'année, 1918. [Lectures by MM. F. Buisson, J. Brunhes, Aulard, J. Charles Brun, M. Leroy, J. Ernest-Charles, J. Hennesy].

Les Nations et la Société des Nations dans la Politique Moderne, by J. Tchernoff. Prèface d'Albert Thomas (Felix Alcan).

La Société des Nations et la France, by R. Brunet. 1921.

Le pacte de la Société, by A. A. Flücher. Paris, 1921.

L'origine et l'oeuvre de la Société des Nations. Sous la direction de P. Munch. Londres, 1923.

Mandats Internationaux. Paris, 1921.

Introduction aux travaux de la Commission de Co-opération intellectuel de la Société des Nations, by P. Ollet.

La Société des Nations. Son origene, son but, son organisation et son oeuvre, by G. Lachapelle (G. Roustan).

La Justice International, by N. Politis (Libraire Hachette, 1924).

*French Translations*

Preliminaires de la Société des Nations, by F. Cosentini. (Felix Alcan). [From the Italian].

Les origines de la Société des Nations, by P. Munch. Copenhagen.

*German*

Die Völkerbund als Kulturgemeinschaft, by Professor F. W. Förster. Stuttgart, 1921.

Deutschland und die Idee des Völkerbunds, by J. Lukas.

Shucking und Wehberg ; Die Satzung der Völkerbunds Kommentiert. 1921.

Internationale Schiedsgerichtsbarkeit im Völkerbund, by G. Magyary. Berlin, 1922.

Monographien zum Völkerbund. Deutsche Liga für Völkerbund.

Supreme Court of International Justice

The International Court of the League of Nations, by Sir Ernest Pollock. *The Cambridge Law Journal*, vol. i, No. 1, 1921.

The Permanent Court of International Justice, by M. Hammarskjöld. League of Nations Union.

Information on the Permanent Court of International Justice, by J. W. Wheeler-Bennett (Association for international understanding).

# APPENDIX C

## COVENANT OF THE LEAGUE OF NATIONS, WITH ANNEX

(*Edition embodying the Amendment of Article* VI, *in force from August* 13, 1924, *and the Amendments of Articles* XII, XIII *and* XV, *in force from September* 26, 1924.)

THE High Contracting Parties,

In order to promote international co-operation and to achieve international peace and security—

by the acceptance of obligations not to resort to war,

by the prescription of open, just and honourable relations between nations,

by the firm establishment of the understandings of international law as the actual rule of conduct among Governments,

and by the maintenance of justice and a scrupulous respect for all Treaty obligations in the dealings of organised peoples with one another,

agree to this Covenant of the League of Nations.

### ARTICLE I

The original Members of the League of Nations shall be those of the signatories which are named in the Annex to this Covenant, and also such of those other States named in the Annex as shall accede without reservation to this Covenant. Such accession shall be effected by a Declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice thereof shall be sent to all other Members of the League.

Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.

Any Member of the League may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.

### Article II.

The action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat.

### Article III.

The Assembly shall consist of representatives of the Members of the League.

The Assembly shall meet at stated intervals and from time to time, as occasion may require, at the seat of the League, or at such other places as may be decided upon.

The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

At meetings of the Assembly each Member of the League shall have one vote and may have not more than three representatives.

### Article IV.

The Council shall consist of representatives of the Principal Allied and Associated Powers [1] together with representatives of

[1] The Principal Allied and Associated Powers are the following: The United States of America, the British Empire, France, Italy, and Japan (see preamble of the Treaty of Peace with Germany).

four other Members of the League. These four Members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the representatives of the four Members of the League first selected by the Assembly, representatives of Belgium, Brazil, Spain and Greece shall be members of the Council.

With the approval of the majority of the Assembly, the Council may name additional Members of the League whose representatives shall always be members of the Council; the Council, with like approval, may increase the number of Members of the League to be selected by the Assembly for representation on the Council.[1]

The Council shall meet from time to time as occasion may require, and at least once a year, at the seat of the League, or at such other place as may be decided upon.

The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

Any Member of the League not represented on the Council shall be invited to send a representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League.

At meetings of the Council, each Member of the League represented on the Council shall have one vote, and may have not more than one representative.

## Article V.

Except where otherwise expressly provided in this Covenant or by the terms of the present Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting.

All matters of procedure at meetings of the Assembly or of the Council, including the appointment of Committees to investigate particular matters, shall be regulated by the Assembly

[1] The number of members of the Council selected by the Assembly was increased to six instead of four by virtue of a resolution adopted by the Third Assembly on September 25, 1922.

or by the Council and may be decided by a majority of the Members of the League represented at the meeting.

The first meeting of the Assembly and the first meeting of the Council shall be summoned by the President of the United States of America.

### Article VI.

The permanent Secretariat shall be established at the seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required.

The first Secretary-General shall be the person named in the Annex ; thereafter the Secretary-General shall be appointed by the Council with the approval of the majority of the Assembly.

The secretaries and staff of the Secretariat shall be appointed by the Secretary-General with the approval of the Council.

The Secretary-General shall act in that capacity at all meetings of the Assembly and of the Council.

*The expenses of the League shall be borne by the Members of the League in the proportion decided by the Assembly.*

### Article VII.

The seat of the League is established at Geneva.

The Council may at any time decide that the seat of the League shall be established elsewhere.

All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

Representatives of the Members of the League and officials of the League, when engaged on the business of the League, shall enjoy diplomatic privileges and immunities.

The buildings and other property occupied by the League or its officials or by representatives attending its meetings shall be inviolable.

### Article VIII.

The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety, and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes and the condition of such of their industries as are adaptable to warlike purposes.

### Article IX.

A permanent Commission shall be constituted to advise the Council on the execution of the provisions of Articles I and VIII and on military, naval and air questions generally.

### Article X.

The Members of the League undertake to respect and preserve, as against external aggression, the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

### Article XI.

Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a

matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall, on the request of any Member of the League, forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends.

### Article XII.

The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture they will submit the matter either to arbitration or *judicial settlement* or to enquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators *or the judicial decision*, or the report by the Council.

In any case, under this Article the award of the arbitrators *or the judicial decision* shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

### Article XIII.

The Members of the League agree that, whenever any dispute shall arise between them which they recognise to be suitable for submission to arbitration *or judicial settlement*, and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration *or judicial settlement*.

Disputes as to the interpretation of a Treaty, as to any question of international law, as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration *or judicial settlement*.

*For the consideration of any such dispute the Court to which the case is referred shall be the Permanent Court of International Justice, established in accordance with Article* XIV, *or any tribunal agreed on by the parties to the dispute or stipulated in any Convention, existing between them.*

The Members of the League agree that they will carry out in full good faith any award *or decision* that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award *or decision*, the council shall propose what steps should be taken to give effect thereto.

### Article XIV.

The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties therto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

### Article XV.

If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration *or judicial settlement* in accordance with Article XIII, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and, if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the

dispute and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council, either unanimously or by a majority vote, shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard therto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the members thereof, other than the representatives of two or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Article XII, relating to the action and powers of the Council, shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the representatives of those Members of the League represented on the Council, and of a majority of the other Members of the League, exclusive in each case of the

representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all members thereof other than the representatives of one or more of the parties to the dispute.

### Article XVI.

Should any Member of the League resort to war in disregard of its Covenants under Articles XII, XIII or XV, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the Covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the Covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the Covenants of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimise the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the Covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the Covenants of the League.

Any Member of the League which has violated any Covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the representatives of all the other Members of the League represented thereon.

### Article XVII.

In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles XII to XVI inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given, the Council shall immediately institute an enquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article XVI shall be applicable as against the State taking such action.

If both parties to the dispute, when so invited, refuse to accept the obligations of membership of the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

### Article XVIII.

Every Treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat, and shall, as soon as possible, be published by it. No such Treaty or international engagement shall be binding until so registered.

### Article XIX.

The Assembly may from time to time advise the reconsideration by Members of the League of Treaties which have become inapplicable, and the consideration of international

conditions whose continuance might endanger the peace of the world.

### Article XX.

The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

In case any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such member to take immediate steps to procure its release from such obligations.

### Article XXI.

Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as Treaties of Arbitration, or regional understandings like the Monroe doctrine, for securing the maintenance of peace.

### Article XXII.

To those colonies and territories, which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them, and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation, and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who, by reason of their resources, their experience, or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the Mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases, and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

In every case of Mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and

examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the Mandates.

### Article XXIII.

Subject to and in accordance with the provisions of international Conventions existing or hereafter to be agreed upon, the Members of the League—

(*a*) Will endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations.

(*b*) Undertake to secure just treatment of the native inhabitants of territories under their control.

(*c*) Will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs.

(*d*) Will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest.

(*e*) Will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914–18 shall be borne in mind.

(*f*) Will endeavour to take steps in matters of international concern for the prevention and control of disease.

### Article XXIV.

There shall be placed under the direction of the League all international bureaux already established by general Treaties if the parties to such Treaties consent. All such international

bureaux and all Commissions for the regulation of matters of international interest thereafter constituted shall be placed under the direction of the League.

In all matters of international interest which are regulated by general Conventions, but which are not placed under the control of international bureaux or Commissions, the Secretariat of the League shall, subject to the consent of the Council, and if desired by the parties, collect and distribute all relevant information, and shall render any other assistance which may be necessary or desirable.

The Council may include as part of the expenses of the Secretariat the expenses of any bureau or Commission which is placed under the direction of the League.

### Article XXV.

The Members of the League agree to encourage and promote the establishment and co-operation of duly authorised voluntary Red Cross organisations having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

### Article XXVI.

Amendments to this Covenant will take effect when ratified by the Members of the League whose representatives compose the Council, and by a majority of the Members of the League whose representatives compose the Assembly.

No such amendments shall bind any Member of the League which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League.

## ANNEX.

### I.—*Original Members of the League of Nations, Signatories of the Treaty of Peace.*

United States of America.
Belgium.
Bolivia.
Brazil.
British Empire.
Canada.
Australia.
South Africa.
New Zealand.
India.
China.
Cuba.
Eucador.
France.
Greece.
Guatemala.
Haiti.
Hedjaz.
Honduras.
Italy.
Japan.
Liberia.
Nicaragua
Panamâ.
Peru.
Poland.
Portugal.
Roumania.
Serb-Croat-Slovene State.
Siam.
Czecho-Slovakia.
Uruguay.

*States invited to accede to the Covenant.*

Argentine Republic.
Chile.
Colombia.
Denmark.
Netherlands.
Norway.
Paraguay.
Persia.
Salvador.
Spain.
Sweden.
Switzerland.
Venezuela.

### II.—*First Secretary-General of the League of Nations.*

The Hon. Sir James Eric Drummond, K.C.M.G., C.B.

### Members of the League.

*October* 1924.

Albania.
Argentine Republic.
Australia.
Austria.
Belgium.
Bolivia.
Brazil.
Ethiopia.
Finland.
France.
Greece.
Guatemala.
Haiti.
Honduras.
Norway.
Panama.
Paraguay.
Peru.
Persia.
Poland.
Portugal

MEMBERS OF THE LEAGUE.—*cont.*

British Empire.
Bulgaria.
Canada.
Chile.
China.
Colombia
Costa Rica.
Cuba.
Czecho-Slovakia.
Denmark.
Dominican Republic.
Esthonia.
Hungary.
India.
Irish Free State.
Italy.
Japan.
Latvia
Liberia.
Lithuania.
Luxemburg.
Netherlands.
New Zealand.
Nicaragua.
Salvador.
Roumania.
Serbs, Croats, and Slovenes (Kingdom of the)
Siam.
South Africa.
Spain.
Sweden.
Switzerland.
Uruguay.
Venezuela.

# COMMENTARY ON THE LEAGUE OF NATIONS COVENANT

THE first draft of the Covenant of the League of Nations was published on February 14, 1919; in the weeks following its publication the League of Nations Commission had the benefit of an exchange of views with the representatives of thirteen neutral Governments, and also of much criticism on both sides of the Atlantic. The Covenant was subjected to careful re-examination, and a large number of amendments were adopted. In its revised form it was unanimously accepted by the representatives of the Allied and Associated Powers in Plenary Conference at Paris on April 28, 1919.

The document that has emerged from these discussions is not the Constitution of a super-State, but, as its title explains, a solemn agreement between sovereign States, which consent to limit their complete freedom of action on certain points for the greater good of themselves and the world at large. Recognising that one generation cannot hope to bind its successors by written words, the Commission has worked throughout on the assumption that the League must continue to depend on the free consent, in the last resort, of its component States; this assumption is evident in nearly every article of the Covenant, of which the ultimate and most effective sanction must be the public opinion of the civilised world. If the nations of the future are in the main selfish, grasping, and warlike, no instrument or machinery will restrain them. It is only possible to establish an organisation which may make peaceful co-operation easy and hence customary, and to trust in the influence of custom to mould opinion.

But while acceptance of the political facts of the present has been one of the principles on which the Commission has worked, it has sought to create a framework which should make possible and encourage an indefinite development in accordance with the ideas of the future. If it has been chary

of prescribing what the League shall do, it has been no less chary of prescribing what it shall not do. A number of amendments laying down the methods by which the League should work, or the action it should take in certain events, and tending to greater precision generally, have been deliberately rejected, not because the Commission was not in sympathy with the proposals, but because it was thought better to leave the hands of the statesmen of the future as free as possible, and to allow the League, as a living organism, to discover its own best lines of development.

### *The Members of the League*

*Article* I contains the conditions governing admission to the League, and withdrawal from it. On the understanding that the Covenant is to form part of the Treaty of Peace, the article has been so worded as to enable the enemy Powers to agree to the constitution of the League, without at once becoming members of it. It is hoped that the original Members of the League will consist of the thirty-two Allied and Associated Powers signatories of the Treaty of Peace, and of thirteen neutral States.

It is to be noted that original Members must join without reservation, and must therefore all accept the same obligations.

The last paragraph is an important affirmation of the principle of national sovereignty, while providing that no State shall be able to withdraw simply in order to escape the consequences of having violated its engagements. It is believed that the concession of the right of withdrawal will, in fact, remove all likelihood of a wish for it, by freeing States from any sense of constraint, and so tending to their more whole-hearted acceptance of membership.

### *The Organs of the League*

*Articles* II–VII describe the constitutional organs of the League.

The Assembly, which will consist of the official representatives of all the Members of the League, including the

British Dominions and India, is the Conference of States provided for in nearly all schemes of international organisation, whether or not these also include a body of popular representatives. It is left to the several States to decide how their respective delegations shall be composed ; the members need not all be spokesmen of their Governments.

The Assembly is competent to discuss all matters concerning the League, and it is presumably through the Assembly that the assent of the Governments of the world will be given to alterations and improvements in international law (see Article XIX), and to the many conventions that will be required for joint international action.

Its special functions include the selection of the four minor Powers to be temporarily represented on the Council, the approval of the appointment of the Secretary-General, and the admission (by a two-thirds majority) of new members.

Decisions of the Assembly, except in certain specified cases, must be unanimous. At the present stage of national feeling, sovereign States will not consent to be bound by legislation voted by a majority, even an overwhelming majority, of their fellows. But if their sovereignty is respected in theory, it is unlikely that they will permanently withstand a strong consensus of opinion, except in matters which they consider vital.

The Assembly is the supreme organ of the League of Nations, but a body of nearly 150 members, whose decisions require the unanimous consent of some 50 States, is plainly not a practical one for the ordinary purposes of international co-operation, and still less for dealing with emergencies. A much smaller body is required, and, if it is to exercise real authority it must be one which represents the actual distribution of the organised political power of the world.

Such a body is found in the Council, the central organ of the League, and a political instrument endowed with greater authority than any the world has hitherto seen. In form its decisions are only recommendations, but when those who recommend include the political chiefs of all the Great Powers and of four other Powers selected by the States of the world

in assembly, their unanimous recommendations are likely to be irresistible.

The mere fact that these national leaders, in touch with the political situation in their respective countries, are to meet once a year, at least, in personal contact for an exchange of views, is a real advance of immense importance in international relations. Moreover, there is nothing in the Covenant to prevent their places being taken, in the intervals between the regular meetings, by representatives permanently resident at the Seat of the League, who would tend to create a common point of view, and could consult and act together in an emergency. The pressure of important matters requiring decision is likely to make some such permanent body necessary, for the next few years at least.

The fact that for the decisions of the Council, as of the Assembly, unanimity is ordinarily required, is not likely to be a serious obstacle in practice. Granted the desire to agree, which the conception of the League demands, it is believed that agreement will be reached, or at least that the minority will acquiesce. There would be little practical advantage, and a good deal of danger, in allowing the majority of the Council to vote down one of the Great Powers. An important exception to the rule of unanimity is made by the clause in Article XV providing that, in the case of disputes submitted to the Council, the consent of the parties is not required to make its recommendations valid.

The second paragraph of Article IV allows for the admission of Germany and Russia to the Council when they have established themselves as Great Powers that can be trusted to honour their obligations, and may also encourage small Powers to federate or otherwise group themselves for joint permanent representation on the Council. Provision is made for securing that such increase in the permanent membership of the Council shall not swamp the representatives of the small Powers, but no fixed proportion between the numbers of the Powers in each category is laid down.

The interests of the small Powers are further safeguarded by the fifth paragraph of Article IV. Seeing that decisions of the Council must be unanimous, the right to sit 'as a

member' gives the State concerned a right of veto in all matters specially interesting it, except in the settlement of disputes to which it is a party. The objection that this provision will paralyse the efforts of the Council does not seem valid, as it is most unlikely that the veto would be exercised except in extremely vital matters.

The relations between the Assembly and the Council are purposely left undefined, as it is held undesirable to limit the competence of either. Cases will arise when a meeting of the Assembly would be inconvenient, and the Council should not therefore be bound to wait on its approval. Apart from the probability that the representatives of States on the Council will also sit in the Assembly, a link between the two bodies is supplied by the Permanent Secretariat, or new international Civil Service.

This organisation has immense possibilities of usefulness, and a very wide field will be open for the energy and initiative of the first Secretary-General. One of the most important of his duties will be the collection, sifting, and distribution of information from all parts of the world. A reliable supply of facts and statistics will in itself be a powerful aid to peace. Nor can the value be exaggerated of the continuous collaboration of experts and officials in matters tending to emphasise the unity, rather than the diversity of national interests.

### *The Prevention of War*

*Articles* VIII–XVII, forming the central and principal portion of the Covenant, contain the provisions designed to secure international confidence and the avoidance of war, and the obligations which the members of the League accept to this end. They comprise :—

(1) Limitation of armaments.
(2) A mutual guarantee of territory and independence.
(3) An admission that any circumstance which threatens international peace is an international interest.
(4) An agreement not to go to war till a peaceful settlement of a dispute has been tried.

(5) Machinery for securing a peaceful settlement, with provision for publicity.
(6) The sanctions to be employed to punish a breach of the agreement in (4).
(7) Similar provisions for settling disputes where States not members of the League are concerned.

All these provisions are new, and together they mark an enormously important advance in international relations.

*Article* VIII makes plain that there is to be no dictation by the Council or anyone else as to the size of national forces. The Council is merely to formulate plans, which the Governments are free to accept or reject. Once accepted, the members agree not to exceed them. The formulation and acceptance of such plans may be expected to take shape in a general Disarmament Convention, supplementary to the Covenant.

The interchange of information stipulated for in the last paragraph of the Article will, no doubt, be effected through the Commission mentioned in Article IX. The suggestion that this Commission might be given a general power of inspection and supervision, in order to ensure the observance of Article VIII, was rejected for several reasons. In the first place, such a power would not be tolerated by many national States at the present day, but would cause friction and hostility to the idea of the League ; nor, in fact, is it in harmony with the assumption of mutual good faith on which the League is founded, seeing that the members agree to exchange full and frank information ; nor, finally, would it really be of practical use. Preparations for war on a large scale cannot be concealed, while no inspection could hope to discover such really important secrets as new gases and explosives and other inventions of detail. The experience of our own Factory Acts shows what an army of officials is required to make inspection efficient, and how much may escape observation even then. In any case, the League would certainly receive no better information on such points

of detail from a Commission than that obtained through their ordinary intelligence services by the several States.

Nor can the Commission fill the role of an International General Staff. The function of a General Staff is preparation for war, and the latter requires the envisagement of a definite enemy. It would plainly be impossible for British officers to take part in concerting plans, however hypothetical, against their own country, with any semblance of reality ; and all the members of a staff must work together with complete confidence. It is further evident that no State would communicate to the nationals of its potential enemies the information as to its own strategic plans necessary for a concerted scheme of defence. The most that can be done in this direction by the Commission is to collect non-confidential information of military value, and possibly to work out certain transit questions of a special character.

In *Article* X the word 'external' shows that the League cannot be used as a Holy Alliance to suppress national or other movements within the boundaries of the Member States, but only to prevent forcible annexation from without.

It is important that this article should be read with *Articles* XI and XIX, which make it plain that the Covenant is not intended to stamp the new territorial settlement as sacred and unalterable for all time, but, on the contrary, to provide machinery for the progressive regulation of international affairs in accordance with the needs of the future. The absence of such machinery, and the consequent survival of treaties long after they had become out of date, led to many of the quarrels of the past ; so that these articles may be said to inaugurate a new international order, which should eliminate, so far as possible, one of the principal causes of war.

*Articles* XII–XVI contain the machinery for the peaceful settlement of disputes, and the requisite obligations and sanctions, the whole hinging on the cardinal agreement that a State which goes to war without submitting its ground of quarrel to arbitrators or to the Council, or without waiting till three months after the award of the former or the recommendation of the latter, or which goes to war in defiance of such award or recommendation (if the latter is agreed to by

all members of the Council not parties to the dispute), thereby commits an act of war against all the other members of the League, which will immediately break off all relations with it and resort, if necessary, to armed force.

The result is that private war is only contemplated as possible in cases when the Council fails to make a unanimous report, or when (the dispute having been referred to the Assembly) there is lacking the requisite agreement between all the Members of the Council and a majority of the other States. In the event of a State failing to carry out the terms of an arbitral award, without actually resorting to war, it is left to the Council to consider what steps should be taken to give effect to the award ; no such provision is made in the case of failure to carry out a unanimous recommendation by the Council, but it may be presumed that the latter would bring pressure of some kind to bear.

In this, as in other cases, not the least important part of the pressure will be supplied by the publicity stipulated for in the procedure of settlement. The obscure issues from which international quarrels arise will be dragged out into the light of day, and the creation of an informed public opinion made possible.

*Article* XIII, while not admitting the principle of compulsory arbitration in any class of disputes, to some extent recognises the distinction evolved in recent years between justiciable and non-justiciable causes, by declaring that in certain large classes of disputes recourse to arbitration is *prima facie* desirable.

The Permanent Court of Justice, to be set up under *Article* XIV, is essential for any real progress in international law. As things now stand, the political rather than the judicial aspect of the settlement of disputes is prominent in the Covenant, but ' political ' settlements can never be entirely satisfactory or just. Ultimately, and in the long run, the only alternative to war is law, and for the enthronement of law there is required such a continuous development of international jurisprudence, at present in its infancy, as can only be supplied by the progressive judgments of a Permanent Court working out its own traditions. Isolated instances of

arbitration, however successful, can never result to the same extent in establishing the reign of law.

Under *Article* XV a dispute referred to the Council can be dealt with by it in several ways :—

(1) The Council can keep the matter in its own hands, as it is certain to do with any essentially political question in which a powerful State feels itself closely interested.

(2) It can submit any dispute of a legal nature for the opinion of the Permanent Court, though in this case the finding of the Court will have no force till endorsed by the Council.

(3) While keeping the matter in its own hands, the Council can refer single points for judicial opinion.

(4) There is nothing to prevent the Council from referring any matter to a committee, or to prevent such a committee from being a standing body. An opening is left, therefore, for the reference of suitable issues to such non-political bodies as the 'Commissions of Conciliation' which are desired in many quarters. The reports of such committees would of course require the approval of the Council to give them authority, but the Covenant leaves wide room for development in this direction.

(5) The Council may at any time refer a dispute to the Assembly. The procedure suggested under (2), (3), and (4) will then be open to the Assembly.

It has been already pointed out that, in the settlement of disputes under this article, the consent of the parties themselves is not necessary to give validity to the recommendations of the Council. This important provision removes any inconvenience that might arise in this connection from the right (see Article IV) of every Power to sit as member of the Council during the discussion of matters specially affecting it. We may expect that any Power claiming this right in the case of a dispute will be given the option of declaring itself a party to the dispute or not. If it declares itself a party, it will

lose its right of veto; if not, it will be taken to disinterest itself in the question, and will not be entitled to sit on the Council.

The sanctions of *Article* XVI, with the exception of the last paragraph, apply only to breaches of the Covenant involving a resort to war. In the first instance, it is left to individual States to decide whether or not such a breach has occurred and an act of war against the League been thereby committed. To wait for the pronouncement of a Court of Justice or even of the Council would mean delay, and delay at this crisis might be fatal. Any State, therefore, is justified in such a case in breaking off relations with the offending State on its own initiative, but it is probable, in fact, that the smaller States, unless directly attacked, will wait to see what decision is taken by the Great Powers or by the Council, which is bound to meet as soon as possible, and is certain to do so within a few hours. It is the duty of the Council, with the help of its military, naval, and air advisers, to recommend what effective force each Member of the League shall supply; for this purpose, each Member from which a contribution is required has the right to attend the Council, with power of veto, during the consideration of its particular case. The several contingents will therefore be settled by agreement, as is indeed necessary if the spirit of the Covenant is to be preserved, and if joint action is to be efficacious. But it is desirable at this point to meet the objection that under such conditions the League will always be late, and consequently offers no safeguard against sudden aggression.

It is true that, in default of a strong international striking force, ready for instant action in all parts of the world, the Members of the League must make their own arrangements for immediate self-defence against any force that could be suddenly concentrated against them, relying on such understandings as they have come to with their neighbours previously for this purpose. There is nothing in the Covenant (see Article XXI) to forbid defensive conventions between States, so long as they are really and solely defensive, and their contents are made public. They will, in fact, be welcomed, in so far as they tend to preserve the peace of the world.

To meet the first shock of sudden aggression, therefore, States must rely on their own resistance and the aid of their neighbours. But where, as in the case of the moratorium being observed, the aggression is not sudden, it is certain that those Powers which suspect a breach of the Covenant will have consulted together unofficially to decide on precautionary measures and to concert plans to be immediately put into force if the breach of the Covenant takes place. In this event these meetings of the representatives of certain Powers will develop into the Supreme War Council of the League, advised by a joint staff. Some reasons why this staff must be an *ad hoc* body, and not a permanent one, have been stated under Article VIII.

The last paragraph of Article XVI is intended to meet the case of a State which, after violating its covenants, attempts to retain its position on the Assembly and Council.

*Article* XVII asserts the claim of the League that no State, whether a member of the League or not, has the right to disturb the peace of the world till peaceful methods of settlement have been tried. As in early English law any act of violence, wherever committed, came to be regarded as a breach of the King's peace, so any and every sudden act of war is henceforward a breach of the peace of the League, which will exact due reparation.

### *Treaties and Understandings*

*Articles* XVIII–XXI describe the new conditions which must govern international agreements if friendship and mutual confidence between peoples are to prevail; the first three provide that all treaties shall be (1) public, (2) liable to reconsideration at the instance of the Assembly, and (3) consonant with the terms of the Covenant. These provisions are of the very first importance.

*Article* XVIII makes registration, and not publication, the condition for the validity of treaties, for practical reasons, since experience shows that the number of new international agreements continually being made is likely to be so great that instant publication may not be possible; but it is the duty

of the Secretariat to publish all treaties as soon as this can be done.

*Article* XIX should be read together with Article XI.

*Article* XXI makes it clear that the Covenant is not intended to abrogate or weaken any other agreements, so long as they are consistent with its own terms, into which the members of the League may have entered, or may enter hereafter, for the further assurance of peace. Such agreements would include special treaties for compulsory arbitration, and military conventions that are genuinely defensive. The Monroe doctrine and similar understandings are put in the same category. They have shown themselves in history to be not instruments of national ambition, but guarantees of peace.

The origin of the Monroe doctrine is well known. It was proclaimed in 1823 to prevent America becoming a theatre for the intrigues of European absolutism. At first a principle of American foreign policy, it has become an international understanding, and it is not illegitimate for the people of the United States to ask that the Covenant should recognise this fact. In its essence it is consistent with the spirit of the Covenant, and indeed the principles of the League, as expressed on Article X, represent the extension to the whole world of the principles of the doctrine ; while, should any dispute as to the meaning of the latter ever arise between American and European Powers, the League is there to settle it.

### *The Functions of the League in Peace*

*Articles* XXII–XXV cover the greater part of the ordinary peace-time activities of the League.

*Article* XXII introduces the principle, with reference to the late German colonies and territories of the Ottoman Empire, that countries as yet incapable of standing alone should be administered for the benefit of the inhabitants by selected States, in the name, and on behalf, of the League, the latter exercising a general supervision. The safeguards which enlightened public opinion demands will in each case

be inserted in the text of the actual convention conferring the Mandate. No provision is made in the Covenant for the extension of such safeguards to the other similar dependencies of the Members of the League, but it may be hoped that the maintenance of a high standard of administration in the mandate territories will react favourably wherever a lower standard now exists, and the mandatory principle may prove to be capable of wide application.

The saving clause at the beginning of *Article* XXIII makes it clear that the undertakings following do not bind the members of the League further than they are bound by existing or future conventions supplementary to the Covenant.

Undertaking (*a*) throws the ægis of the League over the Labour Convention, which itself provides that membership of the League shall carry with it membership of the new permanent Labour organisation ; (*b*) applies to territories not covered by Article XXII ; (*d*) refers to the arms traffic with uncivilised and semi-civilised countries. The matters specially mentioned in this article are to be taken merely as instances of the many questions in which the League is interested. Conventions relating to some of these, such as Freedom of Transit and Ports, Waterways and Railways, are now being prepared ; with regard to a large number of others similar conventions may be expected in the future.

*Article* XXIV is of great importance, as it enlarges the sphere of usefulness of the Secretariat of the League to an indefinite degree. The Covenant has laid the foundations on which the statesmen and peoples of the future may build up a vast structure of peaceful international co-operation.

### *Amendment of the Covenant*

The provisions of *Article* XXVI facilitate the adoption of amendments to the Covenant, seeing that all ordinary decisions of the Assembly have to be unanimous.

The second paragraph was inserted to meet the difficulties of certain States which might fail to secure the assent of their proper constitutional authorities to an amendment agreed to

by the Council and the majority of the Assembly. They are now given the option of accepting the amendment or withdrawing from the League ; but there is little doubt that, if the League becomes an institution of real value, the choice will be made in favour of accepting proposals that already command such wide assent.

It is the facility of amendment ensured by this article, and the absence of restrictions on the activities of the Assembly, the Council, and the Secretariat, which make the constitution of the League flexible and elastic, and go far to compensate for the omissions and defects from which no instrument can be free that represents the fusion of so many and various currents of thought and interest.

# APPENDIX D

## STATUTE

### For the Permanent Court of International Justice provided for by Article XIV of the Covenant of the League of Nations

Article I. A permanent Court of International Justice is hereby established in accordance with Article XIV of the Covenant of the League of Nations. This Court shall be in addition to the Court of Arbitration organised by the Conventions of The Hague of 1899 and 1907, and to the special Tribunals of Arbitration to which States are always at liberty to submit their disputes for settlement.

### Chapter I

*Organisation of the Court*

Article II. The Permanent Court of International Justice shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognised competence in international law.

Article III. The Court shall consist of fifteen members: eleven judges and four deputy-judges. The number of judges and deputy-judges may hereafter be increased by the Assembly, upon the proposal of the Council of the League of Nations, to a total of fifteen judges and six deputy-judges.

ARTICLE IV. The members of the Court shall be elected by the Assembly and by the Council from a list of persons nominated by the national groups in the Court of Arbitration, in accordance with the following provisions.

In the case of Members of the League of Nations not represented in the Permanent Court of Arbitration, the list of candidates shall be drawn up by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article XLIV of the Convention of The Hague of 1907 for the pacific settlement of international disputes.[1]

ARTICLE V. At least three months before the date of the election, the Secretary-General of the League of Nations shall address a written request to the Members of the Court of Arbitration belonging to the States mentioned in the Annex to the Covenant or to the States which join the League subsequently, and to the persons appointed under paragraph 2 of Article IV, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

[1] Article XLIV of the convention of The Hague of 1907 for the pacific settlement of international disputes reads as follows :

'Each contracting Power selects four persons at the most, of known competancy in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrator.

'The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the contracting Powers by the Bureau.

'Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the contracting Powers.

'Two or more Powers may agree on the selection in common of one or more members.

'The same person can be selected by different Powers.

'The members of the Court are appointed for a term of six years. These appointments are renewable.

'Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.'

No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case must the number of candidates nominated be more than double the number of seats to be filled.

ARTICLE VI. Before making these nominations, each national group is recommended to consult its Highest Court of Justice, its Legal Faculties and Schools of Law, and its National Academies and national sections of International Academies devoted to the study of Law.

ARTICLE VII. The Secretary-General of the League of Nations shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article XII, paragraph 2, these shall be the only persons eligible for appointment.

The Secretary-General shall submit this list to the Assembly and to the Council.

ARTICLE VIII. The Assembly and the Court shall proceed independently of one another to elect, firstly the judges, then the deputy-judges.

ARTICLE IX. At every election, the electors shall bear in mind that not only should all the persons appointed as members of the Court possess the qualifications required, but the whole body also should represent the main forms of civilisation and the principal legal systems of the world.

ARTICLE X. Those candidates who obtain an absolute majority of votes in the Assembly and in the Council shall be considered as elected.

In the event of more than one national of the same Member of the League being elected by the votes of both the Assembly and the Council, the eldest of these only shall be considered as elected.

ARTICLE XI. If, after the first meeting held for the purpose of election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

ARTICLE XII. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the Assembly and three by the Council, may be formed, at any time, at the request of either the Assembly or the Council, for the purpose of choosing one

name for each seat still vacant, to submit to the Assembly and the Council for their respective acceptance.

If the Conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Articles IV and V.

If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been appointed shall, within a period to be fixed by the Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the Assembly or in the Council.

In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

ARTICLE XIII. The members of the Court shall be elected for nine years.

They may be re-elected.

They shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

ARTICLE XIV. Vacancies which may occur shall be filled. by the same method as that laid down for the first election. A member of the Court elected to replace a member whose period of appointment had not expired will hold the appointment for the remainder of his predecessor's term.

ARTICLE XV. Deputy-judges shall be called upon to sit in the order laid down in a list.

This list shall be prepared by the Court and shall have regard firstly to priority of election and secondly to age.

ARTICLE XVI. The ordinary Members of the Court may not exercise any political or administrative function. This provision does not apply to the deputy-judges except when performing their duties on the Court.

Any doubt on this point is settled by the decision of the Court.

ARTICLE XVII. No Member of the Court can act as agent, counsel or advocate in any case of an international nature. This provision only applies to the deputy-judges as regards cases

in which they are called upon to exercise their functions on the Court.

No Member may participate in the decision of any case in which he has previously taken an active part, as agent, counsel or advocate for one of the contesting parties, or as a Member of a national or international Court, or of a Commission of inquiry, or in any other capacity.

Any doubt on this point is settled by the decision of the Court.

ARTICLE XVIII. A member of the Court can not be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

Formal notification thereof shall be made to the Secretary-General of the League of Nations, by the Registrar.

This notification makes the place vacant.

ARTICLE XIX. The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

ARTICLE XX. Every member of the Court shall, before taking up his duties, make a solemn declaration in open Court that he will exercise his powers impartially and conscientiously.

ARTICLE XXI. The Court shall elect its President and Vice-President for three years ; they may be re-elected.

It shall appoint its Registrar.

The duties of Registrar of the Court shall not be deemed incompatible with those of Secretary-General of the Permanent Court of Arbitration.

ARTICLE XXII. The seat of the Court shall be established at The Hague.

The President and Registrar shall reside at the seat of the Court.

ARTICLE XXIII. A session of the Court shall be held every year.

Unless otherwise provided by rules of Court, this session shall begin on the 15th of June, and shall continue for so long as may be deemed necessary to finish the cases on the list.

The President may summon an extraordinary session of the Court whenever necessary.

ARTICLE XXIV. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

If the President considers that for some special reason one of the members of the Court should not sit on a particular case, he shall give him notice accordingly.

If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

ARTICLE XXV. The full Court shall sit except when it is expressly provided otherwise.

If eleven judges can not be present, the number shall be made up by calling on deputy-judges to sit.

If, however, eleven judges are not available, a quorum of nine judges shall suffice to constitute the Court.

ARTICLE XXVI. Labour cases, particularly cases referred to in Part XIII (Labour) of the Treaty of Versailles and the corresponding portion of the other Treaties of Peace, shall be heard and determined by the Court under the following conditions :

The Court will appoint every three years a special chamber of five judges, selected so far as possible with due regard to the provisions of Article IX. In addition, two judges shall be elected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article XXV. On all occasions the judges will be assisted by four technical assessors sitting with them, but without the right to vote, and chosen with a view to insuring a just representation of the competing interests.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favour of a judge chosen by the other party in accordance with Article XXXI.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article XXX

from a list of 'Assessors for Labour cases' composed of two persons nominated by each Member of the League of Nations and an equivalent number nominated by the Governing Body of the Labour Office. The Governing Body will nominate, as to one half, representatives of the workers, and as to one half, representatives of employers from the list referred to in Article CCCCXII of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace.

In Labour cases the international Labour Office shall be at liberty to furnish the Court with all relevant information, and for the purpose the Director of that Office shall receive copies of all the written proceedings.

ARTICLE XXVII. Cases relating to transit and communications, particularly cases referred to in Part XII (Ports, Waterways and Railways) of the Treaty of Versailles and the corresponding portions of the other Treaties of Peace shall be heard and determined by the Court under the following conditions :

The Court will appoint every three years a special chamber of five judges, selected so far as possible with regard to the provisions of Article IX. In addition, two judges shall be selected for the purpose of replacing a judge who finds it impossible to sit. If the parties so demand, cases will be heard and determined by this chamber. In the absence of any such demand, the Court will sit with the number of judges provided for in Article XXV. When desired by the parties or decided by the Court, the judges will be assisted by four technical assessors sitting with them, but without the right to vote.

If there is a national of one only of the parties sitting as a judge in the chamber referred to in the preceding paragraph, the President will invite one of the other judges to retire in favour of a judge chosen by the other party in accordance with Article XXXI.

The technical assessors shall be chosen for each particular case in accordance with rules of procedure under Article XXX from a list of 'Assessors for Transit and Communications cases' composed of two persons nominated by each Member of the League of Nations.

ARTICLE XXVIII. The special chambers provided for in Articles XXVI and XXVII may, with the consent of the parties to the dispute, sit elsewhere than at The Hague.

ARTICLE XXIX. With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of three judges who, at the request of the contesting parties, may hear and determine cases by summary procedure.

ARTICLE XXX. The Court shall frame rules for regulating its procedure. In particular, it shall lay down rules for summary procedure.

ARTICLE XXXI. Judges of the nationality of each contesting party shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a judge of the nationality of one of the parties only, the other party may select from among the deputy-judges a judge of its nationality, if there be one. If there should not be one, the party may choose a judge, preferably from among those persons who have been nominated as candidates as provided in Articles IV and V.

If the Court includes upon the Bench no judge of the nationality of the contesting parties, each of these may proceed to select or choose a judge as provided in the preceding paragraph.

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point is settled by the decision of the Court.

Judges selected or chosen as laid down in paragraphs 2 and 3 of this Article shall fulfil the conditions required by Articles II, XVI, XVII, XIX, XXIV of this Statute. They shall take part in the decision on an equal footing with their colleagues.

ARTICLE XXXII. The judges shall receive an annual indemnity to be determined by the Assembly of the League of Nations upone th proposal of the Council. This indemnity must not be decreased during the period of a judge's appointment.

The President shall receive a special grant for his period of office, to be fixed in the same way.

The Vice-Presidents, judges and deputy-judges shall receive

a grant for the actual performance of their duties, to be fixed in the same way.

Travelling expenses incurred in the performance of their duties shall be refunded to judges and deputy-judges who do not reside at the seat of the Court.

Grants due to judges selected or chosen as provided in Article XXXI shall be determined in the same way.

The salary of the Registrar shall be decided by the Council upon the proposal of the Court.

The Assembly of the League of Nations shall lay down, on the proposal of the Council, a special regulation fixing the conditions under which retiring pensions may be given to the personnel of the Court.

ARTICLE XXXIII. The expenses of the Court shall be borne by the League of Nations, in such a manner as shall be decided by the Assembly upon the proposal of the Council.

## CHAPTER II

### *Competence of the Court*

ARTICLE XXXIV. Only States or Members of the League of Nations can be parties in cases before the Court.

ARTICLE XXXV. The Court shall be open to the Members of the League and also to States mentioned in the Annex to the Covenant.

The conditions under which the Court shall be open to other States shall, subject to the special provisions contained in treaties in force, be laid down by the Council, but in no case shall such provisions place the parties in a position of inequality before the Court.

When a State which is not a Member of the League of Nations is a party to a dispute, the Court will fix the amount which that party is to contribute toward the expenses of the Court.

ARTICLE XXXVI. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in Treaties and Conventions in force.

The Members of the League of Nations and the States mentioned in the Annex to the Covenant may, either when

signing or ratifying the protocol to which the present Statute is adjoined, or at a later moment, declare that they recognise as compulsory, *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning :

(*a*) The Interpretation of a Treaty.

(*b*) Any question of International Law.

(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation.

(*d*) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or States, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

ARTICLE XXXVII. When a treaty or convention in force provides for the reference of a matter to a tribunal to be instituted by the League of Nations, the Court will be such tribunal.

ARTICLE XXXVIII. The Court shall apply :

(1) International conventions, whether general or particular, establishing rules expressly recognised by the contesting States ;

(2) International custom, as evidence of general practice accepted as law ;

(3) The general principles of law recognised by civilised nations ;

(4) Subject to the provisions of Article LIX, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

## Chapter III

### *Procedure*

Article XXXIX. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment will be delivered in English.

In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers ; the decision of the Court will be given in French and English. In this case the Court will at the same time determine which of the two texts shall be considered as authoritative.

The Court may, at the request of the parties, authorise a language other than French or English to be used.

Article XL. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the contesting parties must be indicated.

The Registrar shall forthwith communicate the application to all concerned.

He shall also notify the Members of the League of Nations through the Secretary-General.

Article XLI. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to reserve the respective rights of either party.

Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and the Council.

Article XLII. The parties shall be represented by Agents.

They may have the assistance of Counsel or Advocates before the Court.

Article XLIII. The procedure shall consist of two parts : written and oral.

The written proceedings shall consist of the communication to the judges and to the parties of cases, counter-cases and, if necessary, replies ; also all papers and documents in support.

These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

A certified copy of every document produced by one party shall be communicated to the other party.

The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel and advocates.

ARTICLE XLIV. For the service of all notices upon persons other than the agents, counsel and advocates, the Court shall apply direct to the Government of the State upon whose territory the notice has to be served.

The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

ARTICLE XLV. The hearing shall be under the control of the President or, in his absence, of the Vice-President ; if both are absent, the senior judge shall preside.

ARTICLE XLVI. The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

ARTICLE XLVII. Minutes shall be made at each hearing, and signed by the Registrar and the President.

These minutes shall be the only authentic record.

ARTICLE XLVIII. The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

ARTICLE XLIX. The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

ARTICLE L. The Court may, at any time, entrust any individual, body, bureau, commission or other organisation that it may select, with the task of carrying out an inquiry or giving an expert opinion.

ARTICLE LI. During the hearing any relevant questions are to be put to the witnesses and experts under the conditions

laid down by the Court in the rules of procedure referred to in Article XXX.

ARTICLE LII. After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

ARTICLE LIII. Whenever one of the parties shall not appear before the Court, or shall fail to defend his case, the other party may call upon the Court to decide in favour of his claim.

The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles XXXVI and XXXVII, but also that the claim is well founded in fact and in law.

ARTICLE LIV. When, subject to the control of the Court, the agents, advocates and counsel have completed their presentation of the case, the President shall declare the hearing closed.

The Court shall withdraw to consider the judgment.

The deliberations of the Court shall take place in private and remain secret.

ARTICLE LV. All questions shall be decided by a majority of the judges present at the hearing.

In the event of an equality of votes, the President or his deputy shall have a casting vote.

ARTICLE LVI. The judgment shall state the reasons on which it is based.

It shall contain the names of the judges who have taken part in the decision.

ARTICLE LVII. If the judgment does not represent in whole or in part the unanimous opinion of the judges, dissenting judges are entitled to deliver a separate opinion.

ARTICLE LVIII. The judgment shall be signed by the President and by the Registrar. It shall be read in open Court, due notice having been given to the agents.

ARTICLE LIX. The decision of the Court has no binding force except between the parties and in respect of that particular case.

ARTICLE LX. The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

ARTICLE LXI. An application for revision of a judgment can be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

The proceedings for revision will be opened by a judgment of the Court expressly recording the existence of the new fact, recognising that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

The application for revision must be made at latest within six months of the discovery of the new fact.

No application for revision may be made after the lapse of ten years from the date of the sentence.

ARTICLE LXII. Should a State consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene as a third party.

It will be for the Court to decide upon this request.

ARTICLE LXIII. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

ARTICLE LXIV. Unless otherwise decided by the Court, each party shall bear its own costs.

## RULES OF COURT

*Preamble*

The Court,
By virtue of Article XXX of its Statute,
Adopts the present Rules :

### Chapter I. *The Court*

#### Heading 1. *Constitution of the Court*

##### Section A. *Judges and Assessors*

Article I. Subject to the provisions of Article XIV of the Statute, the term of office of judges and deputy-judges shall commence on January 1 of the year following their election.

Article II. Judges and deputy-judges elected at an earlier session of the Assembly and of the Council of the League of Nations shall take precedence respectively over judges and deputy-judges elected at a subsequent session. Judges and deputy-judges elected during the same session shall take precedence according to age. Judges shall take precedence over deputy-judges.

National judges chosen from outside the Court, under the terms of Article XXXI of the Statute, shall take precedence after deputy-judges in order of age.

The list of deputy-judges shall be prepared in accordance with these principles.

The Vice-President shall take his seat on the right of the President. The other Members of the Court shall take their seats to the right and left of the President in the order laid down above.

Article III. Deputy-judges whose presence is necessary shall be summoned in the order laid down in the list referred to in the preceding Article, that is to say, each of them will be summoned in rotation throughout the list.

Should a deputy-judge be so far from the seat of the Court that, in the opinion of the President, a summons would not reach him in sufficient time, the deputy-judge next on the list shall be summoned ; nevertheless, the judge to whom the summons should have been addressed shall be called upon, if

possible, on the next occasion that the presence of a deputy-judge is required.

A deputy-judge who has begun a case shall be summoned again, if necessary out of his turn, in order to continue to sit in the case until it is finished.

Should a deputy-judge be summoned to take his seat in a particular case as a national judge, under the terms of Article XXXI of the Statute, such summons shall not be regarded as coming within the terms of the present Article.

ARTICLE IV. In cases in which one or more parties are entitled to choose a judge *ad hoc* of their nationality, the full Court may sit with a number of judges exceeding eleven.

When the Court has satisfied itself, in accordance with Article XXXI of the Statute, that there are several parties in the same interest and that none of them has a judge of its nationality upon the bench, the Court shall invite them, within a period to be fixed by the Court, to select by common agreement a deputy-judge of the nationality of one of the parties, should there be one ; or, should there not be one, a judge chosen in accordance with the principles of the above-mentioned Article.

Should the parties have failed to notify the Court of their selection or choice when the time limit expires, they shall be regarded as having renounced the right conferred upon them by Article XXXI.

ARTICLE V. Before entering upon his duties, each member of the Court or judge summoned to complete the Court, under the terms of Article XXXI of the Statute, shall make the following solemn declaration in accordance with Article XX of the Statute :

' I solemnly declare that I will exercise all my powers and duties as a judge honourably and faithfully, impartially and conscientiously.'

A special public sitting of the Court may, if necessary, be convened for this purpose.

At the public inaugural sitting held after a new election of the whole Court the required declaration shall be made first by the President, secondly by the Vice-President, and then by the remaining judges in the order laid down in Article II.

ARTICLE VI. For the purpose of applying Article XVIII of the Statute, the President or if necessary the Vice-President, shall convene the judges and the deputy-judges. The member affected shall be allowed to furnish explanations. When he has done so the question shall be discussed and a vote shall be taken, the member in question not being present. If the members present are unanimously agreed, the Registrar shall issue the notification prescribed in the above-mentioned Article.

ARTICLE VII. The President shall take steps to obtain all information which might be helpful to the Court in selecting technical assessors in each case. With regard to the questions referred to in Article XXVI of the Statute, he shall, in particular, consult the Governing body of the International Labour Office.

The assessors shall be appointed by an absolute majority of votes, either by the Court or by the special Chamber which has to deal with the case in question.

ARTICLE VIII. Assessors shall make the following solemn declaration at the first sitting of the Court at which they are present :

'I solemnly declare that I will exercise my duties and powers as an assessor honourably and faithfully, impartially and conscientiously, and that I will scrupulously observe all the provisions of the Statute and of the Rules of Court.'

### SECTION B. *The Presidency*

ARTICLE IX. The election of the President and Vice-President shall take place at the end of the ordinary session immediately before the normal termination of the period of office of the retiring President and Vice-President.

After a new election of the whole Court, the election of the President and Vice-President shall take place at the commencement of the following session. The President and Vice-President elected in these circumstances shall take up their duties on the day of their election. They shall remain in office until the end of the second year after the year of their election.

Should the President or Vice-President cease to belong to the Court before the expiration of their normal term of office,

an election shall be held for the purpose of appointing a substitute for the unexpired portion of their term of office. If necessary, an extraordinary session of the Court may be convened for this purpose.

The elections referred to in the present Article shall take place by secret ballot. The candidate obtaining an absolute majority of votes shall be declared elected.

ARTICLE X. The President shall direct the work and administration of the Court; he shall preside at the meetings of the full Court.

ARTICLE XI. The Vice-President shall take the place of the President, should the latter be unable to be present, or, should he cease to hold office, until the new President has been appointed by the Court.

ARTICLE XII. The President shall reside within a radius of ten kilometres from the Peace Palace at the Hague.

The main annual vacation of the President shall not exceed three months.

ARTICLE XIII. After a new election of the whole Court and until such time as the President and Vice-President have been elected, the judge who takes precedence according to the order laid down in Article II, shall perform the duties of President.

The same principle shall be applied should both the President and the Vice-President be unable to be present, or should both appointments be vacant at the same time.

### SECTION C. *The Chambers*

ARTICLE XIV. The members of the Chambers constituted by virtue of Articles XXVI, XXVII, and XXIX of the Statute shall be appointed at a meeting of the full Court by an absolute majority of votes, regard being had for the purpose of this selection to any preference expressed by the judges, so far as the provisions of Article IX of the Statute permit.

The substitutes mentioned in Articles XXVI and XXVII of the Statute shall be appointed in the same manner. Two judges shall also be chosen to replace any member of the Chamber for summary procedure who may be unable to sit.

The election shall take place at the end of the ordinary session of the Court, and the period of appointment of the members elected shall commence on January 1 of the following year.

Nevertheless, after a new election of the whole Court the election shall take place at the beginning of the following session. The period of appointment shall commence on the date of election and shall terminate, in the case of the Chamber referred to in Article XXIX of the Statute, at the end of the same year and, in the case of the Chambers referred to in Articles XXV and XXVII of the Statute, at the end of the second year after the year of election.

The Presidents of the Chambers shall be appointed at a sitting of the full Court. Nevertheless, the President of the Court shall, *ex officio* preside over any Chamber of which he may be elected a member; similarly, the Vice-President of the Court shall, *ex officio* preside over any Chamber of which he may be elected a member, provided that the President is not also a member.

ARTICLE XV. The special Chambers for labour cases and for communications and transit cases may not sit with a greater number than five judges.

Except as provided in the second paragraph of the preceding Article, the composition of the Chamber for summary procedure may not be altered.

ARTICLE XVI. Deputy-judges shall not be summoned to complete the special Chambers or the Chamber for summary procedure, unless sufficient judges are not available to complete the number required.

### SECTION D. *The Registry*

ARTICLE XVII. The Court shall select its Registrar from amongst candidates proposed by members of the Court.

The election shall be by secret ballot and by a majority of votes. In the event of an equality of votes, the President shall have a casting vote.

The Registrar shall be elected for a term of seven years commencing on January 1 of the year following that in which the election takes place. He may be re-elected.

Should the Registrar cease to hold his office before the expiration of the term above-mentioned, an election shall be held for the purpose of appointing a successor.

ARTICLE XVIII. Before taking up his duties, the Registrar shall make the following declaration at a meeting of the full Court :

' I solemnly declare that I will perform the duties conferred upon me as Registrar of the Permanent Court of International Justice in all loyalty, discretion and good conscience.'

The other members of the Registry shall make a similar declaration before the President, the Registrar being present.

ARTICLE XIX. The Registrar shall reside within a radius of ten kilometres from the Peace Palace at The Hague.

The main annual vacation of the Registrar shall not exceed two months.

ARTICLE XX. The staff of the Registry shall be appointed by the Court on proposals submitted by the Registrar.

ARTICLE XXI. The Regulations for the Staff of the Registry shall be adopted by the President on the proposal of the Registrar, subject to subsequent approval by the Court.

ARTICLE XXII. The Court shall determine or modify the organisation of the Registry upon proposals submitted by the Registrar. On the proposal of the Registrar, the President shall appoint the member of the Registry who is to act for the Registrar in his absence or, in the event of his ceasing to hold his office, until a successor has been appointed.

ARTICLE XXIII. The registers kept in the archives shall be so arranged as to give particulars with regard to the following points amongst others :

(1) For each case or question, all documents pertaining to it and all action taken with regard to it in chronological order ; all such documents shall bear the same file number and shall be numbered consecutively within the file.

(2) All decisions of the Court in chronological order, with references to the respective files.

(3) All advisory opinions given by the Court in chronological order, with references to the respective files.

(4) All notifications and similar communications sent out by the Court, with references to the respective files.

Indexes kept in the archives shall comprise :

(1) A card index of names with necessary references.

(2) A card index of subject matter with like references.

ARTICLE XXVI. During hours to be fixed by the President the Registrar shall receive any documents and reply to any enquiries, subject to the provisions of Article XXXVIII of the present Rules and to the observance of professional secrecy.

ARTICLE XXV. The Registrar shall be the channel for all communications to and from the Court.

The Registrar shall ensure that the date of despatch and receipt of all communications and notifications may readily be verified. Communications and notifications sent by post shall be registered. Communications addressed to the official representatives or to the agents of the parties shall be considered as having been addressed to the parties themselves. The date of receipt shall be noted on all documents received by the Registrar, and a receipt bearing this date and the number under which the document has been registered shall be given to the sender, if a request to that effect be made.

ARTICLE XXVI. The Registrar shall be responsible for the archives, the accounts and all administrative work. He shall have the custody of the seals and stamps of the Court. He shall himself be present at all meetings of the full Court and either he, or a person appointed to represent him with the approval of the Court, shall be present at all sittings of the various Chambers ; he shall be responsible for drawing up the minutes of the meetings.

He shall further undertake all duties which may be laid upon him by the present Rules.

The duties of the Registry shall be set forth in detail in a List of Instructions to be submitted by the Registrar to the President for his approval.

### HEADING 2. *Working of the Court*

ARTICLE XXVII. In the year following a new election of the whole Court the ordinary annual session shall commence on the fifteenth of January.

If the day fixed for the opening of a session is regarded as a holiday at the place where the Court is sitting, the session shall be opened on the working day following.

ARTICLE XXVIII. The list of cases shall be prepared and kept up to date by the Registrar under the responsibility of the President. The list for each session shall contain all questions submitted to the Court for an advisory opinion and all cases in regard to which the written proceedings are concluded, in the order in which the documents submitting each question or case have been received by the Registrar. If in the course of a session, a question is submitted to the Court or the written proceedings in regard to any case are concluded, the Court shall decide whether such question or case shall be added to the list for that session.

The Registrar shall prepare and keep up to date extracts from the above list showing the cases to be dealt with by the respective Chambers.

The Registrar shall also prepare and keep a list of cases for revision.

ARTICLE XXIX. During the sessions the dates and hours of sittings shall be fixed by the President.

ARTICLE XXX. If at any sitting of the full Court it is impossible to obtain the prescribed quorum, the Court shall adjourn until the quorum is obtained.

ARTICLE XXXI. The Court shall sit in private to deliberate upon the decision of any case or on the reply to any question submitted to it.

During the deliberation referred to in the preceding paragraph, only persons authorised to take part in the deliberation and the Registrar shall be present. No other person shall be admitted except by virtue of a special decision taken by the Court, having regard to exceptional circumstances.

Every member of the Court who is present at the deliberation shall state his opinion together with the reasons on which it is based.

The decision of the Court shall be based upon the conclusions adopted after final discussion by a majority of the members.

Any member of the Court may request that a question which is to be voted upon shall be drawn up on precise terms in both the official languages and distributed to the Court. A request to this effect shall be complied with.

## Chapter II. *Procedure*

### Heading 1. *Contentious Procedure*

#### Section A. *General Provisions*

Article XXXII. The rules contained under this heading shall in no way preclude the adoption by the Court of such other rules as may be jointly proposed by the parties concerned, due regard being paid to the particular circumstances of each case.

Article XXXIII. The Court shall fix time limits in each case by assigning a definite date for the completion of the various acts of procedure, having regard as far as possible to any agreement between the parties.

The Court may extend time limits which it has fixed. It may likewise decide in certain circumstances that any proceeding taken after the expiration of a time limit shall be considered as valid.

If the Court is not sitting the powers conferred upon it by this Article shall be exercised by the President, subject to any subsequent decision of the Court.

Article XXXIV. All documents of the written proceedings submitted to the Court shall be accompamied by not less than thirty printed copies certified correct. The President may order additional copies to be supplied.

#### Section B. *Procedure before the Court and before the special Chambers (Articles* XXVI *and* XXVII *of the Statute)*

##### I. *Institution of Proceedings*

Article XXXV. When a case is brought before the Court by means of a special agreement, the latter, or the document notifying the Court of the Agreement, shall mention the

addresses selected at the Court to which notices and communications intended for the respective parties are to be sent.

In all other cases in which the Court has jurisdiction, the application shall include, in addition to an indication of the subject of the dispute and the names of the parties concerned, a succinct statement of facts, an indication of the claim and the address selected at the seat of the Court to which notices and communications are to be sent.

Should proceedings be instituted by means of an application, the first document sent in reply thereto shall mention the address selected at the seat of the Court to which subsequent notices and communications in regard to the case are to be sent.

Should the notice of a special agreement, or the application, contain a request that the case be referred to one of the special Chambers mentioned in Articles XXVI and XXVII of the Statute, such request shall be complied with, provided that the parties are in agreement.

Similarly, a request to the effect that technical assessors be attached to the Court, in accordance with Article XXVII of the Statute, or that the case be referred to the Chamber for summary procedure shall also be granted ; compliance with the latter request is, however, subject to the condition that the case does not refer to any of the questions indicated in Articles XXVI and XXVII of the Statute.

ARTICLE XXXVI. The Registrar shall forthwith communicate to all members of the Court special agreements or applications which have been notified to him.

## II. *Written Proceedings*

ARTICLE XXXVII. Should the parties agree that the proceedings shall be conducted in French or English, the documents constituting the written procedure shall be submitted only in the language adopted by the parties.

In the absence of an agreement with regard to the language to be employed, documents shall be submitted in French or in English.

Should the use of a language other than French or English

be authorised, a translation into French or into English shall be attached to the original of each document submitted.

The Registrar shall not be bound to make translations of documents submitted in accordance with the above rules.

In the case of voluminous documents the Court, or the President if the Court is not sitting, may, at the request of the party concerned, sanction the submission of translations of portions of documents only.

ARTICLE XXXVIII. The Court, or the President, if the Court is not sitting, may, after hearing the parties, order the Registrar to hold the cases and counter-cases of each suit at the disposal of the Government of any State which is entitled to appear before the Court.

ARTICLE XXXIX. In cases in which proceedings have been instituted by means of a special agreement, the following documents may be presented in the order stated below, provided that no agreement to the contrary has been concluded between the parties :

a case, submitted by each party within the same limit of time;
a counter-case, submitted by each party within the same limit of time ;
a reply, submitted by each party within the same limit of time.

When proceedings are instituted by means of an application, failing any agreement to the contrary between the parties, the documents shall be presented in the order stated below :

the case by the applicant ;
the counter-case by the respondent ;
the reply by the applicant ;
the rejoinder by the respondent.

ARTICLE XL. Cases shall contain :

(1) a statement of the facts on which the claim is based ;
(2) a statement of law ;
(3) a statement of conclusions ;
(4) a list of the document in support ; these documents shall be attached to the case.

Counter-cases shall contain :

(1) the affirmation or contestation of the facts stated in the case ;
(2) a statement of additional facts, if any ;
(3) a statement of law ;
(4) conclusions based on the facts stated ; these conclusions may include counter-claims, in so far as the latter come within the jurisdiction of the Court ;
(5) a list of the documents in support ; these documents shall be attached to the counter-case.

ARTICLE XLI. Upon the termination of the written proceedings the President shall fix a date for the commencement of the oral proceedings.

ARTICLE XLII. The Registrar shall forward to each of the members of the Court, a copy of all documents in the case as he receives them.

### III. *Oral Proceedings*

ARTICLE XLIII. In the case of a public sitting, the Registrar shall publish in the press all necessary information as to the date and hour fixed.

ARTICLE XLIV. The Registrar shall arrange for the interpretation from French into English and from English into French of all statements, questions and answers which the Court may direct to be so interpreted.

Whenever a language other than French or English is employed, either under the terms of the third paragraph of Article XXXIX of the Statute or in a particular instance, the necessary arrangements for translation into one of the two official languages shall be made by the party concerned. In the case of witnesses or experts who appear at the instance of the Court, these arrangements shall be made by the Registrar.

ARTICLE XLV. The Court shall determine in each case whether the representatives of the parties shall address the Court before or after the production of the evidence ; the parties shall, however, retain the right to comment on the evidence given.

ARTICLE XLVI. The order in which the agents, advocates

or counsel, shall be called upon to speak shall be determined by the Court, failing an agreement between the parties on the subject.

ARTICLE XLVII. In sufficient time before the opening of the oral proceedings, each party shall inform the Court and the other parties of all evidence which it intends to produce, together with the names, Christian names, description and residence of witnesses whom it desires to be heard.

It shall further give a general indication of the point or points to which the evidence is to refer.

ARTICLE XLVIII. The Court may, subject to the provisions of Article XLIV of the Statute, invite the parties to call witnesses, or may call for the production of any other evidence on points of fact in regard to which the parties are not in agreement.

ARTICLE XLIX. The Court, or the President should the Court not be sitting, shall, at the request of one of the parties or on its own initiative, take the necessary steps for the examination of witnesses out of Court.

ARTICLE L. Each witness shall make the following solemn declaration before giving his evidence in Court :

'I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth.'

ARTICLE LI. Witnesses shall be examined by the representatives of the parties under the control of the President. Questions may be put to them by the President and afterwards by the judges.

ARTICLE LII. The indemnities of witnesses who appear at the instance of the Court shall be paid out of the funds of the Court.

ARTICLE LIII. Any report or record of any enquiry carried out at the request of the Court, under the terms of Article L of the Statute, and reports furnished to the Courts by experts, in accordance with the same Article, shall be forthwith communicated to the parties.

ARTICLE LIV. A record shall be made of the evidence taken. The portion containing the evidence of each witness shall be read over to him and approved by him.

As regards the remainder of the oral proceedings, the Court shall decide in each case whether verbatim records of all or certain portions of them shall be prepared for its own use.

ARTICLE LV. The minutes mentioned in Article XLVII of the Statute shall in particular include :

(1) the names of judges ;
(2) the names of agents, advocates and counsel ;
(3) the names, Christian names, description and residence of witnesses heard ;
(4) a specification of other evidence produced ;
(5) any declarations made by the parties;
(6) all decisions taken by the Court during the hearing.

ARTICLE LVI. Before the oral proceedings are concluded each party may present his bill of costs.

## IV. *Interim Protection*

ARTICLE LVII. When the Court is not sitting, any measures for the preservation in the meantime of the respective rights of the parties shall be indicated by the President.

Any refusal by the parties to conform to the suggestions of the Court or of the President, with regard to such measures, shall be placed in record.

## V. *Intervention*

ARTICLE LVIII. An application for permission to intervene, under the terms of Article LXII of the Statute, must be communicated to the Registrar at latest before the commencement of the oral proceedings.

Nevertheless the Court may, in exceptional circumstances, consider an application submitted at a later stage.

ARTICLE LIX. The application referred to in the preceding Article shall contain :

(1) a specification of the case in which the applicant desires to intervene ;
(2) a statement of law and of fact justifying intervention ;

(3) a list of documents in support of the application ; these documents shall be attached.

Such application shall be immediately communicated to the parties, who shall send to the Registrar any observations which they may desire to make within a period to be fixed by the Court, or by the President, should the Court not be sitting.

ARTICLE LX. Any State desiring to intervene, under the terms of Article LXIII of the Statute, shall inform the Registrar in writing at latest before the commencement of the oral proceedings.

The Court, or the President if the Court is not sitting, shall take the necessary steps to enable the intervening State to inspect the documents in the case, in so far as they relate to the interpretation of the convention in question, and to submit its observations thereon to the Court.

### VI. *Agreement*

ARTICLE LXI. If the parties conclude an agreement regarding the settlement of the dispute and give written notice of such agreement to the Court before the close of the proceedings, the Court shall officially record the conclusion of the agreement.

Should the parties by mutual agreement notify the Court in writing that they intend to break off proceedings, the Court shall officially record the fact and proceedings shall be terminated.

### VII. *Judgment*

ARTICLE XLII. The judgment shall contain :

(1) the date on which it is pronounced ;
(2) the names of the judges participating ;
(3) the names and style of the parties ;
(4) the names of the agents of the parties ;
(5) the conclusions of the parties ;
(6) the matters of fact ;
(7) the reasons in point of law ;

(8) the operative provisions of the judgment ;

(9) the decision, if any, referred to in Article LXIV of the Statute.

The opinions of judges who dissent from the judgment, shall be attached thereto should they express a desire to that effect.

ARTICLE LXIII. After having been read in open Court the text of the judgment shall forthwith be communicated to all parties concerned and to the Secretary-General of the League of Nations.

ARTICLE LXIV. The judgment shall be regarded as taking effect on the day on which it is read in open Court, in accordance with Article LVIII of the Statute.

ARTICLE LXV. A collection of the judgments of the Court shall be printed and published under the responsibility of the Registrar.

## VIII. *Revision*

ARTICLE LXVI. Application for revision shall be made in the same form as the application mentioned in Article XL of the Statute.

It shall contain :

(1) the reference to the judgment impeached ;

(2) the fact on which the application is based ;

(3) a list of the documents in support ; these documents shall be attached.

It shall be the duty of the Registrar to give immediate notice of an application for the revision to the other parties concerned. The latter may submit observations within a time limit to be fixed by the Court, or by the President should the Court not be sitting.

If the judgment impeached was pronounced by the full Court, the application for revision shall also be dealt with by the full Court. If the judgment impeached was pronounced by one of the Chambers mentioned in Articles XXVI, XXVII or XXIX of the Statute, the application for revision shall be dealt with by the same Chamber. The provisions of Article XIII of the Statute shall apply in all cases.

If the Court, under the third paragraph of Article LXI of the Statute, makes a special order rendering the admission of the application conditional upon previous compliance with the terms of the judgment impeached, this condition shall be immediately communicated to the applicant by the Registrar, and proceedings in revision shall be stayed pending receipt by the Registrar of proof of previous compliance with the original judgment and until such proof shall have been accepted by the Court.

### Section C. *Summary Procedure*

Article LXVII. Except as provided under the present section the rules for procedure before the full Court shall apply to summary procedure.

Article LXVIII. Upon receipt by the Registrar of the document instituting proceedings in a case which, by virtue of an agreement between the parties, is to be dealt with by summary procedure, the President shall convene as soon as possible the Chamber referred to in Article XXIX of the Statute.

Article LXIX. The proceedings are opened by the presentation of a case by each party. These cases shall be communicated by the Registrar to the members of the Chamber and to the opposing party.

The cases shall contain reference to all evidence which the parties may desire to produce.

Should the Chamber consider that the cases do not furnish adequate information, it may, in the absence of an agreement to the contrary between the parties, institute oral proceedings. It shall fix a date for the commencement of the oral proceedings.

At the hearing, the Chamber shall call upon the parties to supply oral explanations. It may sanction the production of any evidence mentioned in the cases.

If it is desired that witnesses or experts whose names are mentioned in the case should be heard, such witnesses or experts must be available to appear before the Chamber when required.

Article LXX. The judgment is the judgment of the Court rendered in the Chamber of summary procedure. It shall be read at a public sitting of the Chamber.

### Heading 2. *Advisory Procedure*

Article LXXI. Advisory opinions shall be given after deliberation by the full Court.

The opinions of dissenting judges may, at their request, be attached to the opinion of the Court.

Article LXXII. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request, signed either by the President of the Assembly or the President of the Council of the League of Nations, or by the Secretary-General of the League under instructions from the Assembly or the Council.

The request shall contain an exact statement of the question upon which an opinion is required, and shall be accompanied by all documents likely to throw light upon the question.

Article LXXIII. The Registrar shall forthwith give notice of the request for an advisory opinion to the members of the Court, and to the Members of the League of Nations, through the Secretary-General of the League, and to the States mentioned in the Annex to the Covenant.

Notice of such request shall also be given to any international organisations which are likely to be able to furnish information on the question.

Article LXXIV. Any advisory opinion which may be given by the Court and the request in response to which it was given shall be printed and published in a special collection for which the Registrar shall be responsible.

### Heading 3. *Errors*

Article LXXV. The Court, or the President if the Court is not sitting, shall be entitled to correct an error in any order, judgment or opinion, arising from a slip or accidental omission.

Done at The Hague, the twenty-fourth day of March, one thousand nine hundred and twenty-two.

(*s.*) Loder,
*President*

(*s.*) A. Hammarskjöld
*Registrar.*

## V. ACCEPTANCE OF THE COURT

### 1. Ratifications of the Protocol—35

| | | |
|---|---|---|
| Albania | Esthonia | Poland |
| Australia | Finland | Portugal |
| Austria | France | Rumania |
| Belgium | Greece | Serb-Croat-Slovene State |
| Brazil | Haiti | |
| British Empire | India | Siam |
| Bulgaria | Italy | South Africa, Union of |
| Canada | Japan | Spain |
| China | Lithuania | Sweden |
| Cuba | Netherlands | Switzerland |
| Czecho-Slovakia | New Zealand | Uruguay |
| Denmark | Norway | Venezuela |

### 2. Signatories of the Protocol—11

| | | |
|---|---|---|
| Bolivia | Latvia | Paraguay |
| Chile | Liberia | Persia |
| Colombia | Luxemburg | Salvador |
| Costa Rica | Panama | |

## VI. ACCEPTANCE OF THE OPTIONAL CLAUSE

### 1. Ratifications of the Optional Clause—8

| | | |
|---|---|---|
| Austria | Denmark | Norway |
| Brazil | Esthonia | Portugal |
| Bulgaria | Lithuania | Switzerland |
| China | Netherlands | Uruguay |

### 2. Signatories of the Optional Clause—8

| | | |
|---|---|---|
| Costa Rica | Liberia | Salvador |
| Finland | Luxemburg | Sweden[1] |
| Haiti[1] | Panama | |

[1] Haiti and Sweden put the Optional Clause in force without ratification.

## VII. ADMISSION TO THE COURT

### Resolution of the Council of the League of Nations defining Admission to the Court of States not Members of the League and not mentioned in the Annex to the Covenant. Agreed to May 12, 1922.[1]

The Council of the League of Nations,

In virtue of the powers conferred upon it by Article XXXV, paragraph 2 of the Statute of the Permanent Court of International Justice, and subject to the provisions of that Article,

Resolves :

(1) The Permanent Court of International Justice shall be open to a State which is not a Member of the League of Nations or mentioned in the Annex to the Covenant of the League, upon the following condition, namely : that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Covenant of the League of Nations and with the terms and subject to the conditions of the Statute and Rules of Procedure of the Court, and undertakes to carry out in full good faith the decision or decisions of the Court and not to resort to war against a State complying therewith.

(2) Such declaration may be either particular or general.

A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen.

A general declaration is one accepting the jurisdiction generally in respect of all disputes, or of a particular class or classes of disputes which have already arisen or which may arise in the future.

A State, in making such a general declaration, may accept the jurisdiction of the Court as compulsory, *ipso facto*, and

[1] League of Nations, *Official Journal*, III, 526 and 609. The resolution was passed subject to certain amendments proposed by the representative of France, which, however, have not been reported to the Council in textual form.

The United States is mentioned in the Annex to the Covenant.

without special convention, in conformity with Article XXXVI of the Statute of the Court; but such acceptance may not, without special conventions, be relied upon as regards Members of the League of Nations or States mentioned in the Annex to the Covenant which have signed or may hereafter sign the 'optional clause' provided for by the additional protocol of December 16, 1920.

(3) The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all Members of the League of Nations and States mentioned in the Annex to the Covenant and to such other States as the Court may determine, and to the Secretary-General of the League of Nations.

(4) The Council of the League of Nations reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court; and on the receipt of such commmnication by the Registrar of the Court, and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court.

(5) All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court.

## VIII. JUDGES OF THE COURT

*Elected September* 14–15, 1921, *to serve nine years*

| *Judge* | *National of* | *Born* |
|---|---|---|
| Rafael ALTAMIRA y Crevea . . | Spain | 1866 |
| Dionisio ANZILOTTI . . . | Italy | 1869 |
| Ruy BARBOSA [1] . . . . | Brazil | 1849 |
| Antonio Sánchez de BUSTAMANTE . | Cuba | 1865 |
| Robert Bannatyne Viscount FINLAY | Great Britain | 1842 |
| Hans Max HUBER . . . | Switzerland | 1874 |
| Bernard Cornelis Johannes LODER, President . . . . | Netherlands | 1849 |

[1] Died on March 1, 1923.

| *Judge* | *National of* | *Born* |
|---|---|---|
| John Bassett Moore . . . | United States | 1860 |
| Didrik Galtrup Nyholm . . | Denmark | 1858 |
| Yorozu Oda . . . . | Japan | 1868 |
| Charles André Weiss, Vice-President | France | 1858 |

Deputy Judges

| | | |
|---|---|---|
| Frederik Valdemar Nikolai Beichmann . . . . . | Norway | 1859 |
| Mikhailo Jovanovich . . . | Serb-Croat-Slovene State | 1853 |
| Demitrie Negulesco . . . | Rumania | 1876 |
| Wang Ch'ung-hui . . . | China | 1882 |

Special Chambers, 1923

*Summary Procedure*—Loder (President), Weiss and Moore ; Finlay and Altamira, substitutes.

*Labour Questions*—Finlay (President), Bustamante, Altamira, Anzilotti and Huber ; Nyholm and Moore, substitutes.

*Transit and Communications*—Weiss (President), Barbosa, Nyholm, Moore and Oda ; Anzilotti and Huber, substitutes.

Registrar . . . . Åke Hammarskjöld (Sweden)

## IX. REMUNERATION OF MEMBERS OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

Resolution passed unanimously at Assembly of League of Nations, 31st Plenary Session, December 18, 1920

The Assembly of the League of Nations, in conformity with the provisions of Article 32 of the Statute, fixes the salaries and allowances of members of the Permanent Court of International Justice as follows :

*President*

| | *Dutch florins* | | $ |
|---|---|---|---|
| Annual salary . . . | 15,000 | | 6,030 |
| Special allowance . . . | 45,000 | | 18,090 |
| Total . . . | 60,000 | | 24,120 |

*Vice-President*

| | | | |
|---|---|---|---|
| Annual salary . . . | 15,000 | | 6,030 |
| Duty-allowance (200 x 150). | 30,000 | (maximum) | 12,060 |
| Total . . . | 45,000 | | 18,090 |

*Ordinary Judges*

| | | | |
|---|---|---|---|
| Annual salary . . . | 15,000 | | 6,030 |
| Duty-allowance (200 x 100). | 20,000 | (maximum) | 8,040 |
| Total . . . | 35,000 | | 14,070 |

*Deputy-Judges*

| | | | |
|---|---|---|---|
| Duty-allowance (200 x 150). | 30,000 | (maximum) | 12,060 |

Duty-allowances are payable from the day of departure until the return of the beneficiary.

An additional allowance of 50 florins ($20.10) per day is assigned for each day of actual presence at The Hague to the Vice-President and to the ordinary and deputy-judges.

Allowances and salaries are free of all tax.

## Regulations Regarding the Indemnities of Technical Assessors

1. Technical assesors sitting at the request of the parties to assist the judges under the terms of Article XXVII, paragraph 2 of the Statute and Article XXXV, paragraph 5 of the Rules of Court, shall receive a daily subsistence allowance of 50 florins during the period for which they are obliged by their duties to reside at the place where the Court is sitting, unless they habitually reside there ; in which case they shall receive

a daily allowance of 25 florins. In addition, necessary travelling expenses shall be refunded to them.

2. The total amounts of these subsistence allowances and travelling expenses shall be fixed in each case by the Court and paid by the Registrar, in accordance with the principles governing the assessment of indemnities and repayment of travelling expenses of assessors sitting either under the terms of Article XXVI of the Statute or as a result of a decision of the Court.

3. The amounts thus paid out shall be refunded by the parties in equal proportions. The refund shall take place after judgment has been pronounced.

# APPENDIX E

## PROPOSED TREATY OF MUTUAL ASSISTANCE

*(Text of the Treaty of Mutual Assistance.)*

### Preamble.

The High Contracting Parties, being desirous of establishing the general lines of a scheme of mutual assistance with a view to facilitate the application of Articles X and XVI of the Covenant of the League of Nations, and of a reduction or limitation of national armaments in accordance with Article VIII of the Covenant 'to the lowest point consistent with national safety and the enforcement by common action of international obligations,' agree to the following provisions :—

### Article I.

The High Contracting Parties solemnly declare that aggressive war is an international crime and severally undertake that no one of them will be guilty of its commission.

A war shall not be considered as a war of aggression if waged by a State which is party to a dispute and has accepted the unanimous recommendation of the Council, the verdict of the Permanent Court of International Justice, or an arbitral award against a High Contracting Party which has not accepted it, provided, however, that the first State does not intend to violate the political independence or the territorial integrity of the High Contracting Party.

### Article II.

The High Contracting Parties, jointly and severally, undertake to furnish assistance, in accordance with the provisions of

the present treaty, to any one of their number should the latter be the object of a war of aggression, *provided that it has conformed to the provisions of the present treaty regarding the reduction or limitation of armaments.*

### Article III.

In the event of one of the High Contracting Parties being of opinion that the armaments of any other High Contracting Party are in excess of the limits fixed for the latter High Contracting Party under the provisions of the present treaty, or in the event of it having cause to apprehend an outbreak of hostilities, either on account of the aggressive policy or preparations of any State party or not to the present treaty, it may inform the Secretary-General of the League of Nations that it is threatened with aggression, and the Secretary-General shall forthwith summon the Council.

The Council, if it is of opinion that there is reasonable ground for thinking that a menace of aggression has arisen, may take all necessary measures to remove such menace, and in particular, if the Council thinks right, those indicated in sub-paragraphs (*a*), (*b*), (*c*), (*d*) and (*e*) of the second paragraph of Article V of the present treaty.

The High Contracting Parties which have been denounced and those which have stated themselves to be the object of a threat of aggression shall be considered as especially interested and shall therefore be invited to send representatives to the Council in conformity with Articles IV, XV and XVII of the Covenant. The vote of their representatives shall, however, not be reckoned when calculating unanimity.

### Article IV.

In the event of one or more of the High Contracting Parties becoming engaged in hostilities, the Council of the League of Nations shall decide, within four days of notification being addressed to the Secretary-General, which of the High Contracting Parties are the objects of aggression and whether they are entitled to claim the assistance provided under the treaty.

The High Contracting Parties undertake that they will accept such a decision by the Council of the League of Nations.

The High Contracting Parties engaged in hostilities shall be regarded as especially interested, and shall, therefore, be invited to send representatives to the Council (within the terms of Articles IV, XIII and XVII of the Covenant), the vote of their representative not being reckoned when calculating unanimity ; the same shall apply to States signatory to any partial agreements involved on behalf of either of the two belligerents, unless the remaining Members of the Council shall decide otherwise.

### Article V.

The High Contracting Parties undertake to furnish one another mutually with assistance in the case referred to in Article II of the treaty in the form determined by the Council of the League of Nations as the most effective, and to take all appropriate measures without delay in the order of urgency demanded by the circumstances.

In particular, the Council may :

(*a*) Decide to apply immediately to the aggressor State the economic sanctions contemplated by Article XVI of the Covenant, the members of the League not signatory to the present treaty not being, however, bound by this decision, except in the case where the State attacked is entitled to avail itself of the Articles of the Covenant.

(*b*) Invoke by name the High Contracting Parties whose assistance it requires. No High Contracting Party situated in a continent other than that in which operations will take place shall, in principle, be required to co-operate in military, naval or air operations.

(*c*) Determine the forces which each State furnishing assistance shall place at its disposal.

(*d*) Prescribe all necessary measures for securing priority for the communications and transport connected with the operations.

(*e*) Prepare a plan for financial co-operation among the High Contracting Parties with a view to providing for

the State attacked and for the States furnishing assistance the funds which they require for the operations.

(*f*) Appoint the Higher Command and establish the object and the nature of his duty.

The representatives of States recognised as aggressors under the provisions of Article IV of the treaty shall not take part in the deliberations of the Council specified in this Article. The High Contracting Parties who are required by the Council to furnish assistance, in accordance with sub-paragraph (*b*), shall, on the other hand, be considered as especially interested, and, as such, shall be invited to send representatives, unless they are already represented, to the deliberations specified in sub-paragraphs (*c*), (*d*), (*e*) and (*f*).

## Article VI.

For the purpose of rendering the general assistance mentioned in Articles II, III and V immediately effective, the High Contracting Parties may conclude, either as between two of them or as between a larger number, agreements complementary to the present treaty exclusively for the purpose of their mutual defence and intended solely to facilitate the carrying out of the measures prescribed in this treaty, determining in advance the assistance which they would give to each other in the event of any act of aggression.

Such agreements may, if the High Contracting Parties interested so desire, be negotiated and concluded under the auspices of the League of Nations.

## Article VII.

Complementary agreements, as defined in Article VI shall, before being registered, be examined by the Council with a view to deciding whether they are in accordance with the principles of the treaty and of the Covenant.

In particular, the Council shall consider if the cases of aggression contemplated in these agreements come within the scope of Article II and are of a nature to give rise to an obligation to give assistance on the part of the other High Contracting

Parties. The Council may, if necessary, suggest changes in the texts of agreements submitted to it.

When recognised, the agreements shall be registered in conformity with Article XVIII of the Covenant. They shall be regarded as complementary to the present treaty, and shall in no way limit the general obligations of the High Contracting Parties nor the sanctions contemplated against the aggressor State under the terms of this treaty.

They will be open to any other High Contracting Party with the consent of the signatory States.

### Article VIII.

The States parties to complementary agreements may undertake in any such agreements to put into immediate execution, in the cases of aggression contemplated in them, the plan of assistance agreed upon. In this case they shall inform the Council of the League of Nations, without delay, concerning the measures which they have taken to ensure the execution of such agreements.

Subject to the terms of the previous paragraph, the provisions of Articles IV and V above shall also come into force both in the cases contemplated in the complementary agreements and in such other cases as are provided for in Article II but are not covered by the agreements.

### Article IX.

In order to facilitate the application of the present treaty, any High Contracting Party may negotiate, through the agency of the Council, with one or more neighbouring countries for the establishment of demilitarised zones.

The Council, with the co-operation of the representatives of the parties interested, acting as members within the terms of Article IV of the Covenant, shall previously ensure that the establishment of the demilitarised zone asked for does not call for unilateral sacrifices from the military point of view on the part of the High Contracting Parties interested.

### Article X.

The High Contracting Parties agree that the whole cost of any military, naval or air operations which are undertaken under the terms of the present treaty and of the supplementary partial agreements, including the reparation of all material damage caused by operations of war, shall be borne by the aggressor State up to the extreme limits of its financial capacity.

The amount payable under this Article by the aggressor shall, to such an extent as may be determined by the Council of the League, be a first charge on the whole of the assets and revenues of the State. Any repayment by that State in respect of the principal money and interest of any loan, internal or external, issued by it directly or indirectly during the war shall be suspended until the amount due for cost and reparations is discharged in full.

### Article XI.

The High Contracting Parties, in view of the security furnished them by this treaty and the limitations to which they have consented in other international treaties, undertake to inform the Council of the League of the reduction or limitation of armaments which they consider proportionate to the security furnished by the general treaty or by the defensive agreements complementary to the general treaty.

The High Contracting Parties undertake to co-operate in the preparation of any general plan of reduction of armaments which the Council of the League of Nations, taking into account the information provided by the High Contracting Parties, may propose under the terms of Article VIII of the Covenant.

This plan should be submitted for consideration and approved by the Governments, and, when approved by them, will be the basis of the reduction contemplated in Article II of this treaty.

The High Contracting Parties undertake to carry out this reduction within a period of two years from the date of the adoption of this plan.

The High Contracting Parties undertake, in accordance

with the provisions of Article VIII, paragraph 4 of the Covenant, to make no further increase in their armaments, when thus reduced, without the consent of the Council.

### Article XII.

The High Contracting Parties undertake to furnish to the military or other delegates of the League such information with regard to their armaments as the Council may request.

### Article XIII.

The High Contracting Parties agree that the armaments determined for each of them, in accordance with the present treaty, shall be subject to revision every five years, beginning from the date of the entry into force of this treaty.

### Article XIV.

Nothing in the present treaty shall affect the rights and obligations resulting from the provisions of the Covenant of the League of Nations or of the Treaties of Peace signed in 1919 and 1920 at Versailles, Neuilly, St. Germain and Trianon, or from the provisions of treaties or agreements registered with the League of Nations, and published by it at the date of the first coming into force of the present treaty as regards the signatory or beneficiary Powers of the said treaties or agreements.

### Article XV.

The High Contracting Parties recognise from to-day as *ipso facto* obligatory, the jurisdiction of the Permanent Court of International Justice with regard to the interpretation of the present treaty.

### Article XVI.

The present treaty shall remain open for the signature of all States members of the League of Nations or mentioned in the Annex to the Covenant.

States not members shall be entitled to adhere with the

consent of two-thirds of the High Contracting Parties with regard to whom the treaty has come into force.

### Article XVII.

Any State may, with the consent of the Council of the League, notify its conditional or partial adherence to the provisions of this treaty, provided always that such State has reduced or is prepared to reduce its armaments in conformity with the provisions of this treaty.

### Article XVIII.

[The present treaty shall be ratified, and the instruments of ratification shall be deposited as soon as possible at the Secretariat of the League of Nations.

It shall come into force :

In Europe when it shall have been ratified by five States, of which three shall be permanently represented on the Council ;

In Asia when it shall have been ratified by two States, one of which shall be permanently represented on the Council ;

In North America when ratified by the United States of America ;

In Central America and the West Indies when ratified by one State in the West Indies and two in Central America ;

In South America when ratified by four States ;

In Africa and Oceania when ratified by two States.

With regard to the High Contracting Parties which may subsequently ratify the treaty, it will come into force at the date of the deposit of the instrument.

The Secretariat will immediately communicate a certified copy of the instruments of ratification received to all the signatory Powers.

It remains understood that the rights stipulated under Articles II, III, V, VI and VIII of this treaty will not come into force for each High Contracting Party until the Council has certified that the said High Contracting Party has reduced its armaments in conformity with the present treaty or has adopted the necessary measures to ensure the execution of this reduction, within two years of the acceptance by the said

High Contracting Party of the plan of reduction or limitation of armaments.]

### Article XIX.

[The present treaty thall remain in force for a period of fifteen years from the date of its first entry into force.

After this period, it will be prolonged automatically for the States which have not denounced it.

If, however, one of the States referred to in Article XVIII denounces the present treaty, the treaty shall cease to exist as from the date on which this denunciation takes effect.

This denunciation shall be made to the Secretariat of the League of Nations, which shall, without delay, notify all the Powers bound by the present treaty.

The denunciation shall take effect twelve months after the date on which notification has been communicated to the Secretariat of the League of Nations.

When the period of fifteen years, referred to in the first paragraph of the present Article has elapsed, or when one of the denunciations made in the conditions determined above takes place, if operations undertaken in application of Article V of the present treaty are in progress, the treaty shall remain in force until peace has been completely re-established.]

# APPENDIX F

## PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Animated by the firm desire to ensure the maintenance of general peace and the security of nations whose existence, independence or territories may be threatened ;

Recognising the solidarity of the members of the international community ;

Asserting that war of aggression constitutes a violation of this solidarity and an international crime ;

Desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between States and ensuring the repression of international crimes ; and

For the purpose of realising, as contemplated by Article VIII of the Covenant, the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations ;

The undersigned, duly authorised to that effect, agree as follows :

### Article I.

The signatory States undertake to make every effort in their power to secure the introduction into the Covenant of amendments on the lines of the provisions contained in the following Articles.

They agree that, as between themselves, these provisions shall be binding as from the coming into force of the present Protocol and that, so far as they are concerned, the Assembly and the Council of the League of Nations shall thenceforth

have power to exercise all the rights and perform all the duties conferred upon them by the Protocol.

### Article II.

The signatory States agree in no case to resort to war either with one another or against a State which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to acts of aggression or when acting in agreement with the Council or the Assembly of the League of Nations in accordance with the provisions of the Covenant and of the present Protocol.

### Article III.

The signatory States undertake to recognise as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Permanent Court of International Justice in the cases covered by paragraph 2 of Article XXXVI of the Statute of the Court, but without prejudice to the right of any State, when acceding to the special protocol provided for in the said Article and opened for signature on December 16, 1920, to make reservations compatible with the said clause.

Accession to this special protocol, opened for signature on December 16, 1920, must be given within the month following the coming into force of the present Protocol.

States which accede to the present Protocol, after its coming into force, must carry out the above obligation within the month following their accession.

### Article IV.

With a view to render more complete the provisions of paragraphs 4, 5, 6 and 7 of Article XV of the Covenant, the signatory States agree to comply with the following procedure :

(1) If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article XV, the Council shall endeavour to persuade the parties to submit the dispute to judicial settlement or arbitration.

(2) (*a*) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall, so far as possible, be constituted by agreement between the parties.

(*b*) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select, in consultation with the parties, the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.

(*c*) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request an advisory opinion on any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.

(3) If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory States agree to comply with the recommendations therein.

(4) If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators, and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (*b*) above.

(5) In no case may a solution, upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned, be again called in question.

(6) The signatory States undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3 above, with the solutions recommended by the Council. In the event of a State failing to carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article XIII of the Covenant. Should a State in disregard of the above undertakings resort to war, the sanctions provided for by Articles XVI of the Covenant, interpreted in the manner indicated in the present Protocol, shall immediately become applicable to it.

(7) The provisions of the present Article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly.

## Article V.

The provisions of paragraph 8 of Article XV of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated by Article IV above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of the party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article XI of the Covenant.

## Article VI.

If in accordance with paragraph 9 of Article XV of the Covenant a dispute is referred to the Assembly, that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavouring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article XV of the Covenant and in paragraph 1 of Article IV above.

Should the Assembly fail to achieve an amicable settlement :

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in sub-paragraphs (*a*), (*b*) and (*c*) of paragraph 2 of Article IV above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measures of support stipulated at the end of paragraph 10 of Article XV of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present Protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article IV above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article IV.

## Article VII.

In the event of a dispute arising between two or more signatory States, these States agree that they will not, either

before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article XVII of the present Protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article XI of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint requires investigation, it shall, if it deems it expedient, arrange for inquiries and investigations in one or more of the countries concerned. Such inquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudge the actual settlement.

If the result of such inquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present Article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon a possible a situation of a nature to threaten the peace of the world.

For the purposes of the present Article decisions of the Council may be taken by a two-thirds majority.

## Article VIII.

The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4 and 5 of Article VII.

### Article IX.

The existence of demilitarised zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article X below, the establishment of such zones between States mutually consenting thereto is recommended as a means of avoiding violations of the present Protocol.

The demilitarised zones already existing under the terms of certain treaties or conventions, or which may be established in future between States mutually consenting thereto, may at the request and at the expense of one or more of the conterminous States, be placed under temporary or permanent system of supervision to be organised by the Council.

### Article X.

Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor. Violation of the rules laid down for a demilitarised zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any State shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare :

(1) If it has refused to submit the dispute to the procedure of pacific settlement provided by Articles XIII and XV of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the

Council, a judicial sentence or an arbitral award recognising that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State ; nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article XI of the Covenant.

(2) If it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article VII of the present Protocol.

Apart from the cases dealt with in paragraphs 1 and 2 of the present Article, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin upon the belligerents an armistice, and shall fix the terms, acting, if need be, by a two-thirds majority and shall supervise its execution.

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor.

The Council shall call upon the signatory States to apply forthwith against the aggressor the sanctions provided by Article XI of the present Protocol, and any signatory State thus called upon shall thereupon be entitled to exercise the rights of a belligerent.

## Article XI.

As soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article X of the present Protocol, the obligations of the said States, in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article XVI of the Covenant, will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

Those obligations shall be interpreted as obliging each of the signatory States to co-operate loyally and effectively in

support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.

In accordance with paragraph 3 of Article XVI of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State.

If both parties to the dispute are aggressors within the meaning of Article X, the economic and financial sanctions shall be applied to both of them.

## Article XII.

In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article XI of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the financial and economic sanctions and measures of co-operation contemplated in Article XVI of the Covenant and in Article XI of this Protocol.

When in possession of this information, the Council shall draw up through its competent organs :

(1) Plans of action for the application of the economic and financial sanctions against an aggressor State ;

(2) Plans of economic and financial co-operation between a State attacked and the different States assisting it ;

and shall communicate these plans to the Members of the League and to the other signatory States.

### Article XIII.

In view of the contingent military, naval and air sanctions provided for by Article XVI of the Covenant and by Article XI of the present Protocol, the Council shall be entitled to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol.

Furthermore, as soon as the Council has called upon the signatory States to apply sanctions as provided in the last paragraph of Article X above, the said States may, in accordance with any agreements which they may previously have concluded, bring to the assistance of a particular State, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all States Members of the League which may desire to accede thereto.

### Article XIV.

The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be re-established.

### Article XV.

In conformity with the spirit of the present Protocol, the signatory States agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the Protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor State up to the extreme limit of its capacity.

Nevertheless, in view of Article X of the Covenant, neither the territorial integrity nor the political independence of the aggressor State shall in any case be affected as the result

of the application of the sanctions mentioned in the present Protocol.

### Article XVI.

The signatory States agree that in the event of a dispute between one or more of them and one or more States which have not signed the present Protocol and are not Members of the League of Nations, such non-Member States shall be invited, on the conditions contemplated in Article XVII of the Covenant, to submit, for the purpose of a pacific settlement to the obligations accepted by the States signatories of the present Protocol.

If the State so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory State, the provisions of Article XVI of the Covenant, as defined by the present Protocol, shall be applicable against it.

### Article XVII.

The signatory States undertake to participate in an International Conference for the Reduction of Armaments which shall be convened by the Council and shall meet at Geneva on Monday, June 15, 1925. All other States, whether Members of the League or not, shall be invited to this Conference.

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles XI and XIII of the present Protocol a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

If by May 1, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the

Conference until a sufficient number of ratifications have been deposited.

### Article XVIII.

Wherever mention is made in Article X, or in any other provision of the present Protocol, of a decision of the Council, this shall be understood in the sense of Article XV of the Covenant, namely, that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority.

### Article XIX.

Except as expressly provided by its terms, the present Protocol shall not affect in any way the rights and obligations of Members of the League as determined by the Covenant.

### Article XX.

Any dispute as to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice.

### Article XXI.

The present Protocol, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible.

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given ; in that case, they must transmit the instrument of ratification as soon as possible.

So soon as the majority of the permanent Members of the Council and ten other Members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the Protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article XVII.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect; this declaration shall render the present Protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International Conference for the Reduction of Armaments has not been carried out, and that in consequence the present Protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory State which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present Protocol.

---

I am asked to state by H.M. Stationery Office that the various reproductions from State Papers, which appear in the Appendices, must not be taken as authoritative. I have of course endeavoured to secure that they should be accurate.

*Printed in England at* THE BALLANTYNE PRESS
SPOTTISWOODE, BALLANTYNE & CO. LTD.
*Colchester, London & Eton*

F°H .B97

FEB 16 1948
MAY 29 1954
APR 27 1960
SEP 16 1960
FEB 18 1964
JAN 16 1973
WITHDRAWN

## Redwood Library and Athenæum

### SELECTIONS FROM THE RULES

New fiction is issued for 7 days. New non-fiction is issued for 14 days. Other books are issued for 28 days with the privilege of renewal.

Books overdue are subject to a fine of one cent a day for fourteen days, and five cents a day for each day thereafter.

Any person who shall soil (deface) or damage or lose a book belonging to the Library shall be liable to such fine as the Directors may impose; or shall pay the value of the book or of the set, if it be a part of a set, as the Directors may elect. All scribbling or any marking or writing whatever, folding or turning down the leaves as well as cutting or tearing any matter from a book belonging to the Library, will be considered defacement and damage.